

THE DEPARTMENT OF CONSERVATION

THE MAINE FOREST SERVICE

Public Hearing

MFS Rule -- Chapter 23
Timber Harvesting Standards
to Substantially Eliminate
Liquidation Harvesting

Held March 24, 2004

Ellsworth, Maine

Don Thompson & Associates

Court Reporters

1 (Whereupon, the hearing commenced at 5:59 p.m. on
2 March 24, 2004.)

3 * * * * *

4 MR. GIFFEN: Good evening. It's 6 o'clock, so we
5 might as well get going.

6 We are hoping to be done by 9, for sure. I'm
7 Alec Giffen. I'm the director of the Maine Forest Service.
8 With me tonight is Karen Tilberg, she's the deputy
9 commissioner of the Department of Conservation, and
10 Don Mansius, who's in the policy and management division for
11 the Maine Forest Service.

12 We're here tonight to hear your comments on draft
13 rules -- copies are up on the back table -- that we're
14 considering for the elimination, substantial elimination of
15 liquidation harvesting.

16 The way we got to this point in this endeavor is
17 that liquidation has been an issue for a number of years,
18 gotten a fair amount of coverage in the press, discussion in
19 the Legislature, discussion in a number of forums around the
20 state.

21 The Maine Forest Service has done several field
22 studies over the course of the last decade or so using
23 information over the last decade or so and estimated that in
24 previous studies, for the one that we did this year, that the
25 acreage affected by buy, cut, and sell, not necessarily

1 liquidation harvesting, but buy, cut, and sell within a
2 five-year period is likely to be in the range of 30- to 45,000
3 acres a year.

4 Last year the Maine Legislature adopted, and the
5 Governor signed LD 1616, a copy of which is also up on the
6 back table, which directed the Maine Forest Service to develop
7 rules to deal with the issue of liquidation harvesting.

8 That's what we have done through the stakeholder
9 process, and the results of that are the rules that are before
10 us this evening.

11 We were also directed to determine what were called
12 complementary solutions to the problem of liquidation
13 harvesting. That is, that the Legislature recognized that
14 this issue was not going to be entirely resolved
15 satisfactorily in all likelihood by merely adopting rules, but
16 that other non regulatory measures or other regulatory
17 measures could contribute to substantially eliminating this
18 practice. That's the measure that we've been given by the
19 Legislature is to substantially eliminate this practice.

20 As I've mentioned, we've had stakeholder groups
21 which were working on this effort with us. I feel that we
22 really benefited greatly from those efforts.

23 We had one group that was working with us on
24 liquidation harvesting rules, and we had another group that
25 was working with us on complementary solutions. And I see

1 that there are a number of folks here that participated in one
2 way or the other in those efforts.

3 Peter Triandafillou, from Huber Corporation, up here
4 in the front, participated; Deanna Circo, behind him, from the
5 Natural Resources Council; Pat Strout, from the Forest
6 Products Council, also participated. Ken LaMond, I see up in
7 the back, also participated.

8 The stakeholder groups were constructed to represent
9 a wide variety of interests, including all of the interests
10 that we felt would be concerned with this issue. Rick Givens,
11 I forgot to mention, also was involved in one of the
12 stakeholder groups.

13 There were probably, oh, I would think close to 40
14 people who represented those groups and participated with us,
15 and we owe them a debt of gratitude for helping us become
16 fully informed on this issue.

17 In the case of both of the groups, we aimed to come
18 to consensus, if at all possible, on the issue of rules and on
19 the issue of complementary solutions, but we were not able to
20 do that in the case of either of those groups; however, I do
21 feel that we learned a tremendous amount from their
22 participation and that we were able to narrow the issues that
23 divide folks, so it's been helpful.

24 We're here tonight to get your testimony on the
25 draft rules. Tomorrow we're going to be in Gorham. Last

1 night we were in Farmington and took testimony.

2 After the hearings, there's a public comment period
3 that extends from now through April 5th, and comments can be
4 mailed to us or e-mailed to Don, and he'll give you his e-mail
5 address here a little bit later.

6 We'll then analyze the comments, and our job is then
7 to recommend to the Commissioner a rule that he will decide
8 what to provisionally adopt. That's the next step in the
9 process is that he would provisionally adopt a set of rules
10 which then get referred to the Legislature, and the
11 Legislature takes them up through their agriculture,
12 conservation, and forestry committee and they're considered by
13 the full Legislature.

14 We're not sure exactly when that process is going to
15 take place. We don't know whether or not we'll be able -- we
16 don't know how long the Legislature will be in session.

17 We don't know whether or not we'll be able to get
18 through the regulatory process before they go out of session.
19 We don't know when they will come back in a special session.

20 But we don't intend to shilly shally on this task.
21 We tend to get it done because we very much would like to get
22 this issue resolved, get it behind us, and get on to other
23 things.

24 Don is going to summarize -- between Don and myself,
25 we'll summarize the rules and the contents of complementary

1 solutions and these really do need to be considered as an
2 integrated cache. They were designed to go together
3 hand-in-hand.

4 Again, the rules, by themselves, are not going to
5 solve the problems, neither will the complementary solutions,
6 we need both.

7 Let me just say before we go into the discussions,
8 rules, we've worked very hard to make these rules highly
9 targeted and to avoid unintended consequences.

10 After Don and I cover what's in the rules of the
11 complementary solutions, we'll answer any questions that you
12 have and then we'll take testimony for the balance of the
13 evening.

14 The evening's discussions are being transcribed. We
15 are also taking notes. You can also give us written
16 testimony, if you wish. One person has already done so.

17 I would ask that if you are interested in testifying
18 that you come up here to the microphone so we can make sure
19 that everybody hears your testimony.

20 We would ask you to keep to the point of the rules,
21 themselves. That's what the topic of this evening's
22 discussion is. We ask you to keep your comments brief and to
23 be respectful of others.

24 We did have one outburst last night in Farmington,
25 which was unfortunate, and I'm going to ask that people --

1 let's have this be a civil dialogue, and we are not looking
2 forward to any outbursts of emotion.

3 I recognize the impending emotional issues, but
4 we're trying to sort through this in a very rational way and
5 hear all points of view, so we appreciate your cooperation in
6 that regard.

7 Don, at this point do you want to review the rules
8 and the ground rules?

9 MR. MANSIUS: Good evening. I'm just going to start
10 with a little bit more of the history of how we got to tonight
11 and then explain part of the package that is the rule and
12 complementary solutions report and field study and then go
13 over the ground rules for how this hearing will be conducted.
14 As Alec said, we'll go to questions and then public comments.

15 The proposed rule is part of the Governor's forest
16 stewardship initiative. It is the six-point plan that
17 involves supporting procurement practices at mills, this
18 rulemaking, the identification of complementary solutions,
19 supporting forest certification -- particularly for small
20 landowners -- having State provide leadership by example, and
21 continued Maine Forest Service monitoring of and reporting on
22 liquidation harvesting.

23 Alec mentioned LD 1616 which was passed last spring,
24 in addition to the directives on the rulemaking and the
25 complementary solutions report. It also defines liquidation

1 harvesting as the purchase of timberland followed by a harvest
2 that removes, most for all, commercial value and standing
3 timber without regard to long-term forest management
4 principles and subsequent sale or attempted resale of the
5 harvested land within five years.

6 But it also contains an important policy statement
7 that defines the public's interest in Maine's forests and a
8 finding that the liquidation harvesting is incompatible with
9 those interests.

10 The rule that we're talking about tonight is part of
11 a comprehensive package, as Alec said, and what I'll refer you
12 to is what I call the funnel graphic that is available back
13 there.

14 Overarching, over everything we're doing here,
15 there's education, information. There's efforts by the
16 private sector, and then there's the ongoing monitoring by the
17 Maine Forest Service, as well as the other elements of the
18 Governor's initiative.

19 The package within that, we've got the rule, but on
20 the other side of the package we've got incentives which are
21 proposing the complementary solutions report, and on the other
22 side a couple of different incentives, which I'll talk about
23 briefly in a second.

24 I want to talk first about the field study. We've
25 been under a legislative direction for a few years to continue

1 to monitor and report on liquidation harvesting. In 2003 we
2 continued that work.

3 We pulled a sample of 7.5 percent of all of the
4 harvest from 2001/2002 and visited these parcels and also
5 collected other information about what went on.

6 We did this with the purpose of estimating the
7 acreage purchased, harvested, stands resold within a five-year
8 period and characterized the harvesting that took place on
9 those parcels.

10 We have some preliminary findings on that. The
11 first one is about 19.5 percent of all of the harvest takers
12 experienced at least one change in ownership. That's on an
13 annual basis.

14 Five percent of the acres on an annual basis were
15 purchased, harvested, and sold within five years of the
16 original purchase.

17 There is an additional 14.5 percent that had been
18 harvested, but they've not been held for five years. The
19 final disposition of those lands remain to be determined.

20 We found that about 2.2 percent of the annual
21 harvested acres could be considered liquidation harvesting
22 under the criteria that we used for this study.

23 I would encourage people to use that 2.2 percent
24 number with a little bit of care because our field evaluations
25 also found that nearly all of these sites, 82 percent, that we

1 visited had post-harvest stocking of less than 40 square feet
2 and that damage to the residual stands was quite troubling, so
3 they didn't meet the criteria of liquidation harvest, but
4 they've been heavily harvested, and there were some evidence
5 of lack of care in the harvesting.

6 As I said, many of these harvests were quite heavy.
7 We found no violations of the Forest Practice Act.

8 Our foresters also judged the quality of the
9 residual stand and its ability to respond and grow into the
10 future. And our foresters found that 60 percent of all these
11 sites, not just the 2.2 percent, but 60 percent were
12 considered high-grade harvest that demonstrated no subculture
13 intent, and they showed little promise for the residual stands
14 to respond in a reasonable time.

15 We're going to continue doing fieldwork to formulate
16 our formal findings, so I encourage people to use those
17 findings with caution.

18 The other piece of our package is the complementary
19 solutions report, and it comes in three flavors: There's
20 crosscutting solutions, there's incentives, and disincentives.

21 The crosscutting solutions are: Mill procurement
22 policies, and we're trying to encourage the mills to take
23 steps to encourage sustainable management and reduce the
24 markets originating from liquidation harvests.

25 We're also very interested in continuing our

1 educational efforts to work with people to improve management.

2 On the incentive side, there's quite a few that
3 we've outlined. There's loan guarantees for sustainable
4 forestry investments, incentives for landowners to consolidate
5 their holdings rather than breaking them up, reduced taxes on
6 capital gains since timber is such a long-term investment,
7 encouraging timberland investment for the use of full
8 retirement funds, creating a sustainable forestry revolving
9 loan funds.

10 We're looking at property tax rebates for
11 sustainable forestry. This is different from previous tax
12 law. There is a program in Minnesota where the landowner
13 actually gets a rebate from the State for a commitment to
14 long-term management. And, of course, there's a
15 recommendation on reduced estate taxes.

16 On the disincentive side, one of the recommendations
17 is to continue monitoring the situation, see if all these
18 other actions have some effect. If they don't, then examine
19 whether there is a need for some kind of capital gains penalty
20 on short-term holdings.

21 Another recommendation involved subdivision of lots
22 that have been subjected to the liquidation harvesting. There
23 is a bill before the Legislature right now that would prohibit
24 subdivision permitting for lands that were not in conformance
25 to these rules. I believe that's LD 1617, and it passed out

1 of committee -- and ought to pass majority recommendation --
2 last week.

3 PARTICIPANT: I didn't hear you. Ought to pass?

4 MR. MANSIUS: Ought to pass.

5 Now, I want to speak briefly about the rule itself,
6 just touch on content a little bit. The rule has nine
7 sections.

8 The first section contains the purpose statement,
9 which is to substantially eliminate liquidation harvesting.
10 That's what we were directed to by the Legislature.

11 Section 2 outlines some amendments for the Forest
12 Practices Act. What we're trying to do there is make sure
13 that the definitions in this rule and the definitions in the
14 Forest Practices Act are consistent, so that's what that
15 section does.

16 Section 3 describes the scope and applicability of
17 the rule, which is basically lands that are held for five
18 years or less, harvested, not in conformance with these rules
19 and not subject to any of the exemptions.

20 Section 4 contains the definitions or makes
21 reference to the definitions that are necessary to understand
22 the rule.

23 Section 5 and Section 6 are the real meat of the
24 rule. Section 5 speaks to the exemptions and there are
25 several of them. The activity of any landowner or land

1 manager who qualifies for one or more of the exemptions are
2 not covered by this rule.

3 We'll make this clear, I believe in the final rule
4 if it's not clear now, it's land that has -- that is purchased
5 before the effective date of these rules. It's not subject to
6 these rules, and land that is held for at least five years is
7 not subject to these rules.

8 But the biggest exemptions to be built into the
9 proposed rule are for landowners that own 100 acres or less
10 statewide, they were exempt completely, any harvesting on
11 parcels, 20 acres or less in size, regardless of how many
12 acres anybody owns, are exempt, harvesting by certified master
13 loggers on parcels of 500 acres or less, and lands that are
14 independently certified and poor managed, so there is quite a
15 few -- many million acres of the forests in the state of Maine
16 that are exempt.

17 Section 6 contains the harvest standards, terrain
18 harvesting that's governed by this rule. There's basically
19 two choices: Either a harvest conforms to a harvest plan.
20 That means the standards identified in the rule and the
21 harvest is certified as compliant by a licensed forester or
22 harvesting and removed no more than 40 percent of the volume
23 of the parcel.

24 A landowner may apply to Maine Forest Service for a
25 hardship exemption, if the situation arises, provide they

1 intend to hold a parcel for five years if they harvested it
2 heavily, but their financial circumstances require a sale
3 before that five-year period elapses. It can only be used
4 once in a five-year period, and we would handle that on a
5 case-by-case basis.

6 If you go through the exemption section, you will
7 note that many situations are exempt from the rule. As Alec
8 said, this is intentional. We want to try to adhere to the
9 legislative direction and to target the rules strictly on the
10 behavior of greatest concern.

11 Section 7 of the rule involves responsibility, and
12 the legislation directed that we assign appropriate legal
13 responsibility.

14 Any landowner, logger, or forester who's involved in
15 a harvest that's not compliant with these rules could be held
16 responsible for the violation.

17 Section 8 refers to a variance procedure that is a
18 standard for any regulation of land use. It allows a safety
19 valve, an out for anybody who feels that the rule creates an
20 undue economic hardship. There is a fairly strict test to
21 meet, but it can be done.

22 Section 9 says the effective date for proposing that
23 the rule take effect on January 1 of 2005.

24 Before I turn it back over to Alec, I just want to
25 go over the ground rules for the hearing tonight.

1 First, if you'd like to speak, please raise your
2 hand and be recognized by Alec. Second, once you have been
3 recognized, please come up to the podium and do sign in.
4 There's a sign-in sheet. When you begin your testimony,
5 please state your name clearly and the name of any interest
6 that you represent.

7 We'd like to you to please keep your remarks concise
8 and on the topic. If you're submitting written testimony, you
9 don't need to read it to us. A summary will be fine.

10 If there's time remaining at the end of the session
11 and you have additional remarks to make, we'll entertain them
12 then.

13 I don't believe anybody here spoke last night, but
14 if somebody did, we'll ask you to wait until people speaking
15 for the first time have finished.

16 If you don't wish to speak or if you have additional
17 thoughts that you want to share with us after the hearing, you
18 can provide us with written comments, you can leave them with
19 me before we leave tonight, or if you're not ready to comment
20 now, you can send in to me.

21 My contact information is taped on the table in the
22 back there, but I'll just say my e-mail address right now.
23 It's donald.j.mansius@maine.gov and we need your comments by
24 April 5th.

25 I want to remind everybody that this is a public

1 hearing. It's not a debate. It's an opportunity for the
2 Maine Forest Service and the audience to hear from a wide
3 range of viewpoints on the proposed rules.

4 We may ask you a question or two to clarify
5 something you said in your testimony, and we ask that you give
6 a concise answer to those questions. We do not have time for
7 an extended give-and-take.

8 We also ask that the audience respect the right of
9 all speakers to express their opinions in a respectful manner.
10 Debates, interruptions, and comments from the audience are not
11 appropriate.

12 And finally, I want to make sure that we all
13 understand we're here to talk about the liquidation harvesting
14 rule. We're not here to discuss other issues, such as
15 proposed national parks or multi-lateral trade agreements or
16 anything like that. We're here to talk about the rules, so we
17 have to keep the comments on that topic.

18 Are there any questions about the ground rules?

19 MR. GIFFEN: Thank you, Don. I couldn't have an
20 intelligent conversation on multi-national trade agreements.
21 That's not our topic of expertise, so I hope we don't go
22 there.

23 Are there questions that folks have about the rule?
24 Last night there were a few questions that people had and I
25 think it helped avoid any misunderstandings to deal with those

1 up front.

2 Are there any questions that folks have?

3 MR. AYLWARD: Why are the hearings being contained
4 so far south in the state?

5 MR. GIFFEN: We looked around at places that we felt
6 would be appropriate because of activity that had occurred and
7 felt like these were the most appropriate locations.

8 MR. AYLWARD: Do you have anything to add to that?

9 MR. GIFFEN: We were trying to target to the areas
10 that we felt were most affected by the rule.

11 MR. PHINNEY: So you're saying south of Bangor is
12 what was affected most by this rule?

13 MR. GIFFEN: Names of questioners.

14 MR. AYLWARD: Edward Aylward. A-y-l-w-a-r-d.

15 MR. GIFFEN: And your name, sir?

16 MR. PHINNEY: Peter Phinney, last name's
17 P-h-i-n-n-e-y.

18 MR. GIFFEN: And your question was?

19 MR. PHINNEY: You said the reason we had it so far
20 south is because this is the area that's affected the most,
21 not Northern Maine?

22 MR. GIFFEN: Don, do you have any additional
23 information on the distribution?

24 MR. PHINNEY: So these rules don't affect us in
25 northern Maine?

1 MR. GIFFEN: They will apply statewide.

2 MR. PHINNEY: I think we need hearings statewide.

3 MR. GIFFEN: Questions about the rules?

4 MS. ARTER: Barbara Arter, A-r-t-e-r. I still want
5 clarification on this. Do you have with you statistics that
6 say the break up of the state percentage-wise is where
7 liquidation is occurring? In other words, I just want more
8 details.

9 MR. GIFFEN: We did a statewide sample. It was 7.5
10 percent of the harvests that were conducted in those two
11 years, and we've done previous samplings on different basis.

12 Have we done a break up by region, Don, or were any
13 of these statistically significant given the fact that we were
14 only sampling 7.5 percent?

15 MR. MANSIUS: It probably would not be statistically
16 valid. However, quite a bit of the action is happening from
17 Bangor south.

18 MR. GIFFEN: So we don't have any specific
19 statistics -- we were not aiming this effort at trying to
20 define different regions of the state. We were aiming at
21 trying to understand the activity, the timber harvesting that
22 was going on on these parcels that were bought, cut, and sold.

23 So we did it statewide, but randomly and not at
24 enough intensity to be able to give you an estimate of how
25 much was going on in what part of the state. That would

1 require a much more intensive surveying effort.

2 MS. ARTER: Are you suggesting, then, that you made
3 an attempt to evenly distribute your sampling?

4 MR. GIFFEN: As I recall, we did -- there was a
5 geographically -- it was stratified in several different ways,
6 geography was part of it.

7 We tried to schedule the hearings in the places
8 where this appears to be the most significant as considering
9 the whole state.

10 MS. KRUG: Charlene Krug, K-r-u-g. If people request
11 in writing for meetings north of here, would you hold a
12 hearing north of here?

13 As I understood it, if you wanted to request, if
14 more than five people wanted to request a hearing in a
15 specific location, as long as they did it in writing that you
16 would be obligated to hold that hearing; is that true?

17 MR. GIFFEN: I don't know if we're obligated to hold
18 a hearing. If people want to request that we hold a hearing
19 in another location, make the request. Red shirt first.

20 PARTICIPANT: Do you feel that holding these
21 hearings in a location where you have liquidation harvesting
22 issues, or perceived issues, that you're going to slant the
23 hearing process somewhat?

24 MR. GIFFEN: No. I mean, I would say that if you're
25 saying that there would tend to be in those areas, perhaps

1 more proponents of the rules than opponents of the rules; is
2 that what you're suggesting?

3 PARTICIPANT: That is correct.

4 MR. GIFFEN: I would say let's see how things go
5 this evening, but I think there were far more opponents of the
6 rules than there were proponents.

7 PARTICIPANT: I agree with you. I think that may be
8 the case here. I drove two hours to get here, and I can drive
9 a long ways and still be in Maine going north.

10 I just feel that this is an issue that the Forest
11 Service needs to consider before they try to analyze the
12 information and the comments that come out of these hearings.

13 MR. GIFFEN: Okay. Other questions? We have had a
14 stakeholder process. We've also been in front of the
15 Legislature several times discussing these issues.

16 We've had folks from all over the state serving on
17 the stakeholder committees. Those stakeholder committees
18 held, I don't know how many total, but probably between the
19 two of them, I think it's probably around ten, eight or ten
20 meetings.

21 So it's not like this is a conversation which is
22 taking place in a vacuum. We have done a lot of the work to
23 involve a lot of different people in the discussion of these
24 issues.

25 Are there questions about the rules themselves?

1 I hear you're asking for a hearing north of here.

2 Are there questions about the rules themselves?

3 Hearing none, how many folks are going to want to
4 testify this evening?

5 Okay. It looks like we ought to be able to do it
6 without worrying about the statute time limits, so who would
7 like to go first?

8 MR. TRIANDAFILLOU: Peter Triandafillou,
9 T-r-i-a-n-d-a-f-i-l-l-o-u. My name is Peter Triandafillou. I
10 work for the Huber Resources Corporation up in Old Town,
11 Maine. I live in Orono, and I also served on the
12 complementary solutions stakeholder group represented by Maine
13 Forest Products Council.

14 I'd like to start, if I may. I want to compliment
15 the Maine Forest Service for the work they've done here. I
16 think that you were handed an unbelievable and impossible task
17 to craft these rules.

18 You put together the stakeholder process. I think
19 you made a real effort to incorporate the perspectives of
20 people with a wide range of views, and I think you've listened
21 accurately and tried to do that. I want to compliment you on
22 that. I think you did a good job.

23 My compliments might imply that I'm here to support
24 the rules. I'm sorry to say that's not the case, but I'm not
25 here to support them, but I do think you deserve credit for

1 the work that you did.

2 I really have two broad concerns, and I'll keep my
3 comments very brief. I'll give you my written comments. I
4 have two broad concerns. They concern behavior and
5 complexity.

6 I think the objective of these rules should be to
7 target and change behavior more than to punish or to create
8 complexity, and I think that's what your objective has been.
9 I don't think we've gotten there.

10 The second is complexity, itself, at how those
11 complexities are going to affect how those rules are being
12 implemented.

13 We know from the study that regardless of what the
14 percentage is, the landscape, the amount of landscape that's
15 occurring is fairly small, and we want to target our efforts,
16 if that's what we want to do, to change behavior in that
17 group.

18 In order to do so, I think we need accomplishable
19 goals. They need to be simple.

20 Now, what I'd like to do is concentrate on two items
21 verbally, and I want to concentrate those comments on Option 6
22 because I think it gets to the heart of the matter.

23 Option 1, which allows for 40 percent removal of
24 timber before the rules go into effect. I think that
25 that's -- I don't necessarily, depending on how you look at

1 it, either a high or low number. It's now allowing enough of
2 a removal to occur because the rules take effect.

3 Most of the harvest that you reviewed had a much
4 greater removal than that. Effecting behavior change I think
5 is more likely than the threshold is set at a greater removal
6 amount.

7 In addition, I don't think the 40 percent really
8 adheres to the original intent of the law, which is removal of
9 all or most of the commercial value, 40 percent, in most
10 cases, thinning.

11 I think it's possible, you mentioned earlier
12 education and training, and I think all of us, to a certain
13 extent, failed to really explore that option. I share
14 responsibility for that.

15 I think that there are options for us to pursue
16 education and training. I envision it as a public/private
17 cooperative process, maybe there's some grant writing to get
18 adequate funds so we can do it properly.

19 But I think we can bridge the gap of what you're
20 trying to accomplish there, perhaps by incorporating more
21 training and education to really get behavior. I think that
22 might be a lot more effective.

23 The second one, comments that I have revolve around
24 harvest plan. I think harvest plans are excellent ideas. I
25 think as part of an education effort, and I think that the

1 harvest plan, in general, and a harvest plan, in particular,
2 would get us toward better practices in woods, but I think the
3 harvest plan articulated in the rules is over complex.

4 My suspicion is that most practitioners would run
5 away from them. They are going to find them long and somewhat
6 subjective. In particular, I think much of the language
7 around wildlife habitat and biodiversity should be removed for
8 two reasons: One is that I don't think they are that
9 applicable on smaller wood lots, and secondly, this objective,
10 I think it will scare a lot of the people off.

11 I think that the Governor and the Forest Service
12 identified practice, which the public seems to be concerned
13 about. I think it's a reasonable thing to want to do
14 something about. Honestly, I don't think that these rules in
15 their implementation will really get at change of behavior
16 once that appears on the landscape.

17 I think that they're complex and injurious enough
18 that the people would walk around them in some way. That
19 concerns me because we'll have a new set of rules in the
20 books, they won't really change behavior and we'll be back at
21 this.

22 One other comment I wanted to say, verbally, and
23 that concerned -- two quick ones. One is, my understanding
24 was that when we got into it was that there would be
25 exemptions or internal transfers of ownership when families

1 change internally, or when corporations change their internal
2 structure, sell shares.

3 I couldn't find that in the rules and maybe because
4 I wasn't looking in the right place, but I think that needs to
5 be there. I found the exemption for third-party --
6 certification and you know that Huber is not certified yet, so
7 it doesn't apply to us -- but I found the wording confusing.

8 It had wording there for things that occurred every
9 five years and after five years and five years thereafter,
10 when after five years, it doesn't apply to the ownership
11 anymore.

12 I can give you the technical details without boring
13 everybody with those here. But I found the wording on
14 third-party certification confusing.

15 I think that the intent is correct, but I think it
16 would be worded a lot better. That's all I have, unless you
17 have any questions, I'll give you my written comments.

18 MR. GIFFEN: Thank you, Peter.

19 Karen reminded me that I should point out that
20 written comments can be submitted by anybody from wherever
21 they live in the state, and those written comments will
22 receive the same kind of weight as comments of these hearings.
23 Something else to keep in mind. Who would like to go next?

24 MR. WHITE: My name is Don White. I'm president of
25 Prentiss and Carlisle. Just by way of background, Prentiss

1 and Carlisle manages about 850,000 acres of timberland. We
2 own about 85,000 acres of timberland. I am a part owner of
3 Prentiss and Carlisle, although it be we, we are a
4 full-service logging contractor.

5 We harvest about 60,000 cords of wood. We
6 manufacture telephone and telegraph poles. Believe it not,
7 they still make them. We have a high-grade sawmill. We run
8 wooden concentration yards and Enfield and Newport.

9 We contract with 20 logging companies that harvest
10 about 250,000 cords of wood in the state of Maine. Some of
11 our contractors are in the room.

12 We provide forestry and timberland investment
13 consulting services nationally. Our furthest client is in
14 Hawaii. Never been -- never got to go there, but that's okay.

15 We actively pursue timberland investors to try to
16 romance them into putting capital into timberland. We do that
17 very far reaching. We're around. We also provide woodlot
18 management services to small landowners. We have a stake in
19 this. What we're viewing is a pretty intrusive set of rules.

20 I also want to thank the Forest Service. We had one
21 of our foresters who is not able to be here tonight, and he
22 probably would be better served if he were, and the Forest
23 Service really gave a yeoman's -- a fairly noble effort at
24 trying to crack the rules that would work for all of us.

25 We have heard tonight about the carrots that are

1 proposed out there for capital gain taxes, but we're here to
2 talk about the sticks.

3 From our company's perspective, we now think that it
4 would be naive to assume that the rules could be written with
5 such surgical accuracy that somewhere in that list of things
6 we do, we're not going to get sucked in, and we're not going
7 to be at a place we really don't want to be.

8 We and our colleagues have spent hundreds of hours
9 trying to trade a surgical instrument in a set of rules that
10 would apply, that are going to be applied, but in the final
11 analysis, we found that basically flawed and another way to
12 address, we'll try and refrain from the number, but we'll call
13 it a 2 percent problem. It needs to be found.

14 Just as an example, of one of the flaws we found in
15 the rules, we have a certain landowner who had been a
16 landowner in state of Maine for 120 years. We've been
17 managing for them only for 80 years.

18 The way the rules are written, this landowner
19 converted their timberland into a single entity last year. If
20 they had done it next year, and they did it to avoid State
21 taxes for trying to hold the land together, for all the right
22 reasons, some of you guys would all be very pleased to see
23 they would fall under this because the deed would be recorded
24 and the transfer would have taken place and there would be a
25 new owner and a new entity that would be affected by these

1 rules.

2 There are some things here that would not be
3 workable, so we would have to change their management plan for
4 them just to try and get around the rule. The point is, we
5 could probably address that one issue because I was smart
6 enough to think about it beforehand. I'm not terribly smart.
7 I can't think of everything, and we're not going to be able to
8 think of everything that comes in and cast way too broad and
9 try to pick up on that situation.

10 In our view, if the rules are enacted as written, it
11 will not curtail any activity that some people find
12 intolerable. There's ways to work around -- Peter and I
13 travel together, we found five or six different ways. Okay.
14 Let's be creative, and let's get around these rules. It will
15 still happen.

16 It will, however, in my view, diminish the value of
17 the timberland that we hold and our clients hold. If you
18 think about it this way, if someone wants to come in and
19 you're trying to sell timberland, one of the persons that's
20 going to come to the table will be somebody who's going to do
21 an aggressive harvest.

22 If he is forced to hold that for five years, he is
23 going to look at that and say, okay, take the time value of
24 money, back that off, I'll reduce the price by that. You're
25 not impacting the guy who's actually instituting the harvest.

1 You're impacting the guy that's held timberland for some
2 hundred years, now needs to sell a piece to pay for somebody's
3 tuition to college. I'm in the middle of that, so I know how
4 painful that is.

5 We don't really need to spend a lot of time on this,
6 but we've completely abandoned the concept of basic property
7 rights. I'll just leave it at that.

8 I apologize, Don, for getting on to the number.
9 Everybody keeps saying it's a 2 percent problem, 60 percent of
10 this. The denominator is always based on the harvest that's
11 taking place. Whatever the number is, the first number I
12 heard was 14,000 acres, and Alec used 30,000 acres earlier,
13 but if you used the 14,000 or used the 30,000 acres and base
14 it on 17 million acres of timberland, we're talking a .019
15 percent problem.

16 That's .19 percent of 1 percent is kind of like
17 cutting off your arm to get rid of that annoying hangnail. It
18 seems to be incomprehensible that would happen.

19 In our travels trying to promote timberland
20 investment, people always ask us, and you know, what about
21 regulations? Aren't you from the state of Maine? We
22 understand that you're very heavily regulated. Now we'll have
23 to say, well, we're heavily regulated, plus this. It's pretty
24 hard to explain.

25 If capital equals jobs, and I know the State is

1 doing an admiral job to try to get those jobs in Lincoln saved
2 for all of our benefits and they can't attract capital. It's
3 the same thing with timberland investments.

4 I think we're at the point where we need to ask
5 ourselves just that one question: If capital does equal jobs,
6 why do we want to discourage investment in the state of Maine?

7 Thank you.

8 MR. GIFFEN: Thank you. Who would like to go next?

9 MR. LAMOND: I'm Ken Lamond. I'm a forester for
10 McPherson Timberland in Bangor. I'd like to say it's great to
11 be here, but we're at it again, liquidation harvesting.

12 I also participated in the stakeholder group on the
13 rules side of the process and really thought that it was a
14 good process in the sense that it's a very difficult issue,
15 liquidation harvesting. We've been wrestling with this for 10
16 to 15 years and it's usually in the context of public hearing,
17 like this.

18 You get five minutes and the next person, five
19 minutes. That process did allow us to really sit down around
20 the table and hash this issue out backwards and forward. In
21 the end, we still don't agree.

22 There are clearly two sides of the issue, and we
23 were not able to come to a consensus. Probably could have
24 predicted that at the start of the process, but it still was
25 valuable to sit down and hear and kick around ideas just the

1 same.

2 I'd like to talk also about in the rule, Section 6,
3 and Peter said pretty much what I would have said. You know,
4 Option 1, the 40 percent harvest, I don't think is a high
5 enough percentage to get even close to most or all commercial
6 value. That's pointed out in the definition.

7 I think the percentage needs to be clearly --
8 really, substantially higher than that in order to get even
9 close to that threshold.

10 I also believe that the 33 sites that were visited
11 in the field study, the vast majority of those were harvested
12 in excess of 80 percent. You're really not seeing any kind of
13 a problem other than perhaps planning and performance problems
14 on harvests 60, 70 percent, although certainly there are
15 people that would differ as far as the decisions that are made
16 to harvest or not harvest. That's more a function of
17 objective rather than process.

18 The second option, the plan, I've always been in
19 favor of the harvest plan, I'm just not in favor of this
20 harvest plan at the moment.

21 I think there are elements in the plan that are too
22 subjective, and I believe that the regulated community can't
23 possibly know what those items mean until this is all over
24 with and the Maine Forest Service begins to apply this rule to
25 the regulating community.

1 Portions of the plan calling for managing stands to
2 maturity. In my mind, that means different things to
3 different people. That is a function of objective, largely,
4 rather than one-size-fits-all, and I just see enormous
5 opportunity for a subjective application of that and bantering
6 back and forth between foresters that the conclusion just will
7 be unknown.

8 The same is true for improving quality. That means
9 different things to different people. It's also quality in my
10 mind is a function of people's willingness to accept risk. I
11 would use white birch as the example. Somebody that harvests
12 white birch boat wood can receive somewhere in the order of
13 \$50 a cord to the land.

14 If you decide to manage that towards veneer, you may
15 get substantially more, but you might manage that tree to 8 or
16 \$10 a cord to the land, so there is a level of risk that
17 people are willing to accept. That's a function of objective,
18 and I think we need to be very careful to have those
19 subjective elements in the plan.

20 The other thing that Peter pointed out was in the
21 area of biodiversity. It talks about one of the items was
22 managing around vernal pools and deer yards. I think it's
23 very important that we talk about, in the plan, identifying
24 and recognizing regulated habitat, not simply vernal pools and
25 deer yards.

1 If they're not adopted by the regulatory agency or
2 by the municipal authority, we shouldn't have to manage to the
3 State standards for the deer yards. I'm very concerned about
4 that.

5 I see maps being produced by a number of
6 organizations. They are simply lines drawn around A-density
7 soffit stands, and I think that's a dangerous area to go in.
8 It needs to be very, very specific what habitat needs to be
9 identified and addressed.

10 There is certainly a need to understand in every
11 harvest site, regulated habitat that's in the area and
12 identify it and deal with it.

13 I think the plan ultimately needs to be far more
14 about harvest process than harvest objective. When I read the
15 plan and I look at the elements and I ask myself how this can
16 be applied, I think it steps too far in the direction of
17 harvest objective and doesn't stay close enough to harvest
18 process.

19 When we went and visited or talked about the field
20 study that was done. A number of us during this rule making
21 process asked again and again, how is the field study coming?
22 Can we have some numbers during the rule making process?

23 It really was late in the process that the numbers
24 showed up and it's preliminary. There's still work to be
25 done. When I ran through the numbers, I came out with the 2.2

1 percent, as Don mentioned, was 2.2 percent of the acreage that
2 potentially was liquidation harvesting. Of the 33 sites, that
3 represented of 819 sites that were in the sample. It came
4 down to 33 sites that we need to go take a look at, and from
5 my understanding, in the final analysis, it was 14 sites
6 finally, of the 819, this using the criteria that the Forest
7 Service used exhibited indicators of unacceptable harvesting
8 practices.

9 So we are talking about a very small percentage of
10 the harvest sites, annually, that need to be addressed. There
11 is some attention that needs to be paid to, in my view,
12 primarily planning and performance, much less about
13 objectives.

14 I just think that we can't lose sight of the fact
15 that there is some concern out there. Some would say there is
16 a tremendous problem. I think the Forest Service inventories
17 would show continuing improving forests in Maine, and the
18 field study that shows a relatively small percentage of the
19 annual harvest that can be categorized as unacceptable
20 harvesting practices, or at least indicators of unacceptable
21 harvesting practices.

22 I think there's a good story to be told about the
23 folks that are in the woods that are harvesting timber,
24 planning and executing harvests, and I really believe that the
25 solution at this point should be more directed toward the

1 information and education, building on the continuing
2 education process, and the CLD and SFI programs and work along
3 those lines rather than continuing along more regulation and
4 more regulation.

5 That's all I have to say today.

6 MR. GIFFEN: Ken, Karen's got something to say.

7 MS. TILBERG: I just want to make sure you say what
8 you mean by focusing more on harvest process. Couple of
9 examples.

10 MR. LAMOND: The way I look at harvest process,
11 rather than objective, process is: We're going to harvest in
12 an area. That needs to be laid out. You have to understand.
13 You either do that or you don't do that. There's nothing
14 subjective about that. You either flag out the harvest area
15 or you don't, so you can determine yes or no, I did that.

16 You need to identify the water courses, the primary
17 water courses that are shown on a topographic map that travel
18 through the harvest area.

19 You need to identify the appropriate riparian zones
20 for those water courses through either State zoning maps or
21 municipal zoning maps, and you need to flag those riparian
22 zones and prepare them and deal with them or you don't. It's
23 easy to see or not.

24 There are municipally adopted and State adopted deer
25 yards. They're on LURC zoning maps. They're on municipal

1 maps. You identify those deer yards that have been adopted by
2 the municipality and require you to manage in a certain way,
3 and you put them on the ground and you manage according to the
4 standards that are called for, for those areas that are
5 adopted, they're zoned. You either do it or you don't.
6 There's nothing subjective about it.

7 Same thing with wetland areas. They're on zoning
8 maps. You put the appropriate riparian zone. You either do
9 it or you don't. Everybody knows whether you do it or you
10 don't.

11 Managing stands to maturity, I think we're going to
12 get into a big battle over because maturity is the decision of
13 the landowner, really.

14 You can't tell somebody that's making particle board
15 that they shouldn't cut their poplar until it gets to be 15,
16 16, 18 inches in diameter. There's any number of examples
17 that you could cite out there.

18 I use hard maple, also. Some people want to grow
19 hard maple to be 20 inches in diameter. I think that's a
20 great recipe to manage hard maple through a third-heart value
21 to a half-heart value and lose money on it.

22 I just think that those kinds of decisions remain
23 with the landowner. Harvest process is, in my mind, a number
24 of steps that we should all take landing locations, road
25 building standards, BMP, water quality protections, those

1 kinds of issues, or items that go into planning and, frankly,
2 I think the numbers are showing that most of these operations
3 are addressing those issues.

4 Where we're seeing some problems out there, probably
5 there is some lacking in the planning aspect or in the care
6 that's being taken in harvest. I think that should be the
7 focus of the attention. That's really where the solution
8 lies, in my mind.

9 MR. GIFFEN: Thank you, Ken. Other folks who would
10 like to speak? Yes, sir.

11 MR. MAIER: Thank you very much. My name is
12 Jake Maier. I'm a consulting forester in Brewer. I'm a
13 member of SAF. I'm certified with SAF, and I'm a member of
14 the Forest Stewards Guild.

15 I want to testify in support of the rule. Some
16 critics of the rules say that this is not forestry but a real
17 estate problem and we in the forest industry should keep our
18 hands off this issue.

19 I want to emphatically say as a forester, when 2 to
20 10 percent of the ongoing practice in an industry cuts off the
21 branch the industry is sitting on, everybody depending on this
22 industry should be up in arms.

23 Liquidation harvesting is cutting off the branch the
24 forest products industry is sitting on and we should all help
25 to eliminate this practice.

1 Can this be done on a voluntary basis?

2 Unfortunately not.

3 There will always be people who cannot resist the
4 temptation of a short-term gain. I want to say to the
5 previous arguments that I think what was missing in their
6 arguments is that 40 percent and the complexity of the
7 management plan comes into play when somebody buys land,
8 strips it, and then sells it within five years.

9 This is not normal forestry practices. These rules
10 do not apply when somebody is not, by definition, doing a
11 liquidation harvest.

12 We need to say to the liquidators, you can't get
13 there from here. You can't get to your windfall from within
14 our state and hopefully from nowhere else. Should we offer
15 incentives to promote long-term forestry as a remedy to
16 liquidation harvest as some suggest?

17 I'm not against incentives, but I don't see how it
18 can deter anybody to continue to make a quick buck by
19 liquidating a property and then selling it.

20 Is the legislation perfect? Certainly not. But if
21 we wait until it's perfect, we might have lost the source for
22 the paper to print the legislation on. Thank you very much.

23 MR. GIFFEN: Other folks who would like to testify.
24 Yes, sir.

25 MR. POULIN: My name is Joe Poulin. I'm a forester

1 since 1985. I've worked in the forestry industry since 1970.

2 I'm opposed to these regulations and these rules. I
3 agree that I think it's an unnecessary infringement on
4 landowner rights to buy and sell and use their own land.

5 The current Forest Practices Act, I feel, are
6 adequate to legislation for timber harvesting. And I think in
7 that way the proposed rules would result in having two sets of
8 regulation for harvesting which causes confusion and possible
9 inadvertent mix-up of the two sets of regulations.

10 Under Section 6 of the harvest standards, the
11 harvest does not remove more than 40 percent of the basal
12 areas. I can't see how this is forest management.

13 There are some standards where 40 percent removal
14 would be good. There's other standards where 100 percent
15 removal would be the right forest management for that. I
16 think that 40 percent removal could lead to additional
17 hydrating of lots where the best is taken out and the poorer
18 grade is left.

19 And I agree that more education is the key to good
20 forest stewardship. Thank you.

21 MR. GIFFEN: Thank you. Other folks who would like
22 to testify. The gentleman up in the back.

23 MR. WARREN: My name is Dave Warren. I guess it was
24 in the early '60s. I've been at this now for 40 years, and
25 I'm not in favor of the regulation. I'm not in favor of the

1 concept at all.

2 There's, as Jerry said, there's going to be two
3 overlapping sets of rules here. How are they going to be
4 administered? Is this going to be a fire warden thing, or are
5 more foresters going to be tied up? How is this going to be
6 monitored or watched? We were one of the 14 parcels that was
7 picked up in the sampling, and it's a piece in Holden that my
8 wife and I own, about 187 acres.

9 It was cruised, and I believe the data is a part of
10 this. And the reason that we were -- the parcel was picked up
11 because we gave a piece of property to our son and that became
12 an out sale, regardless of to whom it was, that became an out
13 sale.

14 And while I realize some of these things can be
15 exempted, we also are aware of the cruise data because the
16 forester that did it for the Maine Forest Service shrugged his
17 shoulders and saw no problem with the cutting, but what there
18 is a problem with is a field that we exempted when we reported
19 this about 10 or 15 acres we exempted and cleared it.

20 It's an old field and we put the hay back to it and
21 we gradually restored it. I think it points at the complexity
22 of what you get to dealing with in this, particularly if
23 you're small landowners, which we are, we're not in this.

24 We buy our own land and we cut on it for years and
25 some it we've sold and about 13 acres of it that we wanted to

1 or have kept, we've kept and managed.

2 One of those is the Holden lot. I don't expect that
3 it will always be in forest, but it is now and it was cut
4 carefully. Nobody has any objection to it, but it was picked
5 up on the law and had we -- we would have had to go and defend
6 ourselves under the regulations that are here.

7 Maybe it would have only taken another letter to
8 say, well, it was given to our son. You know, the State is
9 trying to keep the young people here. We're trying to keep
10 our family here. I don't think the idea was bad. There are
11 so many few of us and so many people looking now, you feel
12 like you're kind of under a microscope, continually, that
13 somebody is going to be looking for something and you can do
14 something completely inadvertently, such as this case, and
15 just stir up a good mess of trouble for yourself.

16 I think we met the harvesting standards up there. I
17 don't think there was any complaint by anybody. I don't know
18 what we would have to gain by overlapping another set of
19 standards at 40 percent whereas we already did the job and did
20 it right. Nobody had any objection to it, but under the 40
21 percent rule, probably, it would not pass.

22 Now, there's a number of reasons why 40 percent
23 won't pass: Either you have circles or size cutting that
24 regenerate certain species, particularly hardwoods, that's
25 ash, yellow birch, which is what that is.

1 A lot of what we did, we did deliberately. Circles
2 are cut. The patches are cut, so you wind up in a situation
3 of having to defend this sort of stuff.

4 I guess it depends on where the State wants to go.
5 It seems to me it's an awful lot of effort on some of these
6 things and damn little on regeneration and managing the
7 regeneration and seeing -- trying to set some objective to
8 coming back on some of this land, and everybody knows it's
9 going to come back.

10 It's going to come back too many trees, and we need
11 to do thinnings, more thinnings, and everybody said it and
12 said it over the years and yet we continue to spend our time,
13 like we are tonight, fooling around, to my mind, on a bunch of
14 stuff that's just going to make the lawyers and some of the
15 land appraisers are going to have a ball with this.

16 This thing is going to resort and result in some
17 serious losses of value. There is a take, no question in my
18 mind, that constitutes a taking. We've all been too damn lax
19 on a number of the previous takings that have occurred in this
20 matter and not viewing it as such. It is a distinct taking.
21 The appraisers will pick that up and pick it up very, very
22 quickly when they appraise forestland.

23 I think there are serious legal issues and financial
24 issues that don't seem to interest the State too much and
25 other things seem to rule and, boy, I think this is just

1 something that's come along.

2 I don't know why SWOAM is so in favor of it, either.
3 There are better ways to grow trees and make sure that we have
4 some healthy forests than to do this. I've got nothing good
5 to say about it. Thank you.

6 MR. GIFFEN: Thank you, sir. As regard to whether
7 or not your lot was included, that I don't know. I do know
8 that there were some lots that were originally thought to be
9 part of the sample that were dropped out because they were
10 transfers within families.

11 PARTICIPANT: They didn't drop it out.

12 MR. GIFFEN: In any case, there is an exemption
13 provided in the rules for transfers within a family that make
14 those exempt.

15 There's someone else who wanted to speak. Gentleman
16 up in back. Then we'll get to you.

17 MR. AMES: Good evening, my name is Chuck Ames. I
18 live in Sebec, Maine, and I own and operate SDR Logging, along
19 with my brother, Doug, and my dad, Silus. We have been in the
20 logging industry for 25 years. We oppose the rule.

21 We have bought and sold land in the past, and we've
22 harvested it in a responsible manner and sold. The practice
23 of buying, cutting, and then selling timberland in our part of
24 the country, or our part of the state, has gone on for
25 generations. It's not changed. It's happened ever since

1 America or settlers first came here.

2 The rule will stamp out a way of life and go a long
3 ways of putting us out of business. Five years is a long time
4 in the logging industry. We have only two choices: One, hold
5 the land for more than five years; two, comply with the rules.

6 The proposed rule will substantially reduce the wood
7 we can remove from our land as compared to what we can remove
8 if we hold the land for more than five years.

9 We practice good forest management and the proposed
10 rule will not change what we do. It will upset the economics
11 of growing and owning land.

12 Restricting us to removing 40 percent or less of the
13 wood will not allow us to pay for this land. We're a small
14 company. We do not have and could not afford a staff
15 forester. We have to hire a forester when we need one. Our
16 wood will not be worth any more money because we pay a
17 forester.

18 To prepare a timber harvest plan, you are adjusting
19 increasing our cost, especially as compared to land not
20 subject to the rule.

21 I have been told that converting timberland to other
22 uses is one of the things behind this rule. This is not a
23 problem in northern Maine. If it is a problem in some areas
24 of the state, come up with a solution that applies only where
25 there is a problem.

1 MR. GIFFEN: Thank you. I believe this gentlemen
2 over here wants to speak.

3 MR. McLAUGHLIN: Good evening. My name is
4 Steve McLaughlin. I own and operate Stillwater Land and
5 Lumber, Limited, in Old Town, Maine. I'm a small company, a
6 one-man-band, so to speak.

7 I provide consulting services for buyers and sellers
8 of timberland in this part of the state, north to the Canadian
9 borders on both sides. Contrary to what some of the things
10 I'm going to say here tonight and comment on, Don White and I
11 did not compare notes and ride down together.

12 What I'd like to comment on, principally, are two
13 quick facets here. And first of all, as I read it and
14 understand it, or try to understand the law, the complexity of
15 the filings and the management plans that would be required in
16 strict compliance with the law will place an undue burden and
17 expense on the resources and the personnel and the staffing,
18 or lack thereof, for small companies like Mr. Ames in an
19 industry where those resources are stretched perilously thin
20 already.

21 So I think, I'm obviously not in favor of the law,
22 and I think that's one of the greatest single weak points, and
23 that is the costs and the burden that these small operators
24 that will have to deal with if they are going to remain in
25 compliance with the law.

1 Perhaps in a broader range I'd like to say a few
2 comments about the scope of the law versus what the rule or
3 the proposed rule as what I perceive to be, or understand to
4 be the scope of the perceived problem.

5 We do have here in Maine about 17 million forested
6 acres. If what, in fact, the Forest Service has provided by
7 way of numbering is correct, then we are looking at a
8 liquidation harvesting problem, whereby land would be removed
9 from productive timber growth and used, perhaps for other
10 activities of something like 1/10 of 1 percent of our forested
11 acres. That's the scope of the situation as I see it on a
12 statewide basis.

13 Moreover, I have a report that was generated by the
14 State of Maine that tells me that in the unorganized towns in
15 2002, 741 acres were removed from tree growth of the over 7 --
16 excuse me, 7 million 500,000 acres that are classified in tree
17 growth.

18 We all know here, we've been through that process.
19 Without a change in classification, there is no change in use.
20 At the risk of being repetitive, I'll say it again: In 2002
21 there were over 7.5 million acres of tree growth and in that,
22 those 12 calendar months, there were 741 acres -- actually
23 741.13 -- acres removed from tree growth.

24 Ladies and gentlemen here tonight, that is 1/100 of
25 1 percent of the land in the unorganized territory in tree

1 growth. That is a very, very, very small potential or
2 perceived problem that is being far, far outshadowed by the
3 proposed solution.

4 That's it. That's all I have. Any questions, I'll
5 be here to defend myself. If not, I'll move on. Thank you.

6 MR. GIFFEN: Other folks who would like to speak.
7 Rick.

8 MR. GIVENS: My name is Rick Givens. I'm
9 representing the Maine Sporting Camp Association. Our
10 association numbers some 60 members with sporting camps
11 located through the state of Maine.

12 I, myself, owned a sporting camp since 1973. I
13 recently retired and because I had so much time on my hands,
14 I'm representing the Sporting Camp Association tonight.

15 I was fortunate enough, and I thank the Forest
16 Service for the opportunity to do that and serve on the
17 complementary solutions working group and thank you also for
18 the opportunity to speak tonight.

19 The solutions, the incentives that were established
20 by that group, I believe all of them are good ideas. I
21 believe that they will take some time to implement.

22 Some of the ones that involve money coming from the
23 State, such as the property tax rebates and that sort of
24 thing, that's going to require money from a source and given
25 the state of the State budget now, that source is going to be

1 a pretty hard sell to come up with extra money to do something
2 like this.

3 Others are going to require a lot of time to attract
4 people for retirement account possibilities, such as has been
5 mentioned and things like that.

6 A concern I have is that if these incentives do
7 indeed not work, then there's nothing to stop someone from
8 buying and purchasing land, liquidating it and then selling it
9 within five years.

10 The legislation that's proposed to amend the
11 subdivision law so that a subdivision where liquidation has
12 occurred would be prohibited is a step in the right direction.
13 That would not take into consideration a piece of land that
14 was sold, harvested, and then sold as a chunk within five
15 years.

16 I believe that the capital gains tax penalty, or
17 fine, is really the only solution that was going to be --
18 effectively stop, with no exceptions, any liquidation
19 harvesting occurs.

20 If the financial incentive for a harvesting and
21 selling within five years is gone, then nobody is going to do
22 it, and the only way that's going to happen is with a
23 liquidation capital gains tax or fine, a penalty or a fine.

24 As far as sporting camps are concerned, if we had a
25 situation where one of our camps was located on ownership or

1 next to an ownership which was bought, liquidated, and then
2 sold, it would affect us in two ways: No. 1, sporting camps
3 depend exclusively on the natural resources around them -- the
4 fish, the wildlife, and the beauty of it for their livelihood.

5 That's what attracts the guests, so that would be a
6 financial ruin for us from the attraction of the guests.

7 The second aspects of a sporting camp is lack of
8 development around it. If it was subdivided, then this
9 development would occur, so business-wise, for us, liquidation
10 harvesting in our areas would be devastating to us.

11 So I believe stopping it, the only effective way to
12 do it would be with a capital gains tax and/or fine, penalty.

13 MR. GIFFEN: Thank you. Other folks who would like
14 to speak. Gordon.

15 MR. MOTT: My name is Gordon Mott. I'm a forester.
16 I think I could claim, perhaps, greatest longevity here
17 tonight. I first hit the ground as a forester 50 years ago in
18 1954. I started five years earlier as a freshman student in
19 '49. I've seen an awful lot of changes.

20 I'm at a real disadvantage tonight. I've come
21 several hours to get here for the hearing, standing up at a
22 microphone, I don't know what to say.

23 I find myself in complete agreement with everybody,
24 everything that has been said to this point. I have the
25 highest admiration for the wonderful hard work that has been

1 done by so many people, and at the same time, the greatest
2 despair of the outcome, and I don't know how to contribute to
3 improving the situation, but I'm going to try just a few
4 little comments.

5 Firstly, I absolutely agree with those who had the
6 view that there's some serious discrimination when we're
7 looking at liquidation harvesting as being an issue when
8 there's subsequent sale.

9 I think we've got serious issues, personally as a
10 forester, broadly and generally with liquidation harvesting
11 within the state, but it isn't defined properly. It's a
12 problem that doesn't depend upon whether land is sold or not.

13 In fact, if the definitions stopped right at the
14 point where it says purchase of timberland followed by a
15 harvest that removes most or all commercial value in standing
16 timber without regard for long-term forest management
17 principles and stopped there. That's liquidation harvesting.
18 That's the problem that we had.

19 Resale is not the issue, I don't think. It's the
20 harvesting without standards for residual harvesting, without
21 regard to long-term productivity of the land that is the
22 issue.

23 The second comment that I'd offer is that I don't
24 see the concern there might be about the proposed rule.

25 As I see it, the proposed rule simply says, go

1 ahead, do everything that you always have been able to do,
2 just talk about it a little bit more.

3 There's no requirement that you do anything
4 different. The only requirement is that a good deal of
5 narrative, a good deal of discussion of what might constitute
6 good management take place, but you can go ahead and
7 regenerate any parcel of land under the regeneration rules
8 which simply say leave 30 square feet of basal area, have a
9 regeneration to commercially viable species, which is
10 something you just can't fail here in the state of Maine, I
11 don't think.

12 If you leave land alone with 30 square feet on it,
13 and besides the regeneration, test is done five years later by
14 which time the time period has expired on this rule anyway on
15 selling land.

16 Fundamentally, while I'm completely in favor of
17 improved forest practices, and there's a lot of good ideas
18 here and I can see that people worked hard coming from two
19 sides of the issue, it looks to me like you're on two sides of
20 the Grand Canyon and have compromised in the middle and gone
21 nowhere.

22 Nothing is required under the rule, and I think it's
23 business as usual, nothing to worry about.

24 That's probably not very valuable, but I offer that
25 to you.

1 MR. GIFFEN: Thank you, Gordon. Other folks who
2 would like to testify.

3 MR. BRYAN: My name is Rob Bryan, and I represent
4 the Maine Audubon Society. I'm here tonight on behalf of our
5 statewide organization. We've got about 11,000 members and
6 supporters in the state and are interested in wildlife and
7 wildlife habitat.

8 I am a licensed forester here in the state.
9 Although, I guess, Gordon has about 30 years on me, I guess.
10 I guess I was born in the year he started his career, so we've
11 got a little difference there.

12 I've worked for private landowners, consulting
13 forestry. I've worked as an environmental consultant for
14 businesses and environmental permits, development work. I've
15 worked now for the last eight years, since '95, for Maine
16 Audubon, so I kind of blend my forestry work and my interest
17 in wildlife and ecology at that job there.

18 It's never easy work. About three months after I
19 first came there, Jonathan Carter dropped his first referendum
20 on the state, and I looked at that and said there's no way we
21 can support this and we did. And the same thing happened a
22 few years later with another referendum.

23 I point that out to those of you folks that don't
24 know me that well, that I definitely believe that if we're
25 going to do any kind of regulation, we have to do it right.

1 We have to respect the professions that are out there working
2 in the field to make the right judgment, to do the right work
3 out there. And those few pieces of legislation certainly does
4 not allow that.

5 When I look at this proposal, I see it much
6 differently. I see that there are options out there that are
7 workable. One simple option, the 40 percent rule, and then
8 the alternative is the harvest plan rule. And that really
9 puts the forester more involved.

10 I think it adds a little extra responsibility for
11 the forester, maybe some more meaning for the forest to write
12 a harvest plan and justify what's going on out there. I think
13 that's something that can be done, and I think it's something
14 that should be done.

15 Will it stop the heavy cutting? In some ways I have
16 to agree with what Gordon said. I don't believe it's going to
17 be business as usual, but I think that in a lot of conditions
18 a heavy cut can be worked out under that harvest plan.

19 Mr. Lamond said he wants to see that the plan be
20 done right and done well, and I think that's what the real
21 intention is.

22 Mr. Lamond did mention the concern about growing
23 trees to maturity, and I think I agree with him 100 percent on
24 that as well. Ken and I are -- usually we're on the opposite
25 side of the issue, but I always feel like we're just about

1 this far apart. We're very close in a lot of ways.

2 In this case, maturity is not defined as --
3 biological maturity is not defined as when a tree is going to
4 fall over and die, but it should be defined by the landowner
5 and the forester working out when is that tree mature for that
6 particular interest. I see no other way to get around that
7 question.

8 But what the whole plan does require is that
9 everything be considered in that harvest, including that
10 maturity. It means, yes, a lot of the big trees are going to
11 go, but I see a lot of harvests where a lot of wood goes to
12 pulpwood that I think any forester who thinks all about the
13 future would not call that a good harvest, and that would not
14 be on your pulpwood. I'm talking about good quality 8- to
15 10-inch rock maple, everyone knows has great value.
16 Everything gets clipped off.

17 Regarding the 40 percent rule, I don't believe
18 that's going to increase any hydrating, the hydrating is
19 already happening out there as it is.

20 I looked at some statistics the Maine Forest Service
21 did in the process of developing the rules. They looked at
22 white pine stands, northern hardwood stands, spruce fir, ones
23 with soft timber and pulpwood and said what will happen if we
24 cut these stands at various levels and their analysis, on
25 average if you took 30 percent of the volume out of the

1 stands, you would be removing 70 percent of the value on all
2 the stands that they had on average, which is pretty close to
3 the 40 percent rule. On average we might be removing 70
4 percent of the value of the 40 percent rule.

5 Seems to be quite a bit of harvesting in there.

6 There are a few places where I think the rule could
7 be tightened up a little bit and, in particular, I think the
8 consideration for regeneration in the harvest plan and this
9 may address some of Gordon Gamble's concerns.

10 Bob Seymour of the University of Maine submitted
11 some comments on the general issue of how to address the
12 problem. He said to avoid the negative consequences of
13 liquidation harvesting one must insist that the decision to
14 regenerate the entire stand be based on an assessment of
15 whether the growing stock is mature.

16 Again, that comes down to a variety of factors,
17 biological and economic, what is the landowner's approach to
18 this and how is he looking at returns from the stands.
19 Maturity is not a one-sided equation based on tree diameter.

20 But again, if that piece is incorporated more into
21 the harvest plan, I think it will get into the justification
22 process more, understand what trees we're going to leave, what
23 trees we're going to take and why. I think that's a very
24 important part of the process.

25 There are a few other concerns relative to

1 clarification on some of the language on threatened and
2 endangered species, and there is a process now where we can
3 identify rare plants, as well.

4 I think it's important. They are not very common on
5 these sites. They won't affect many of these harvests at all,
6 but it would be important to protect them in the situations
7 where they do come up.

8 And a few other smaller details on some of the
9 exemptions I had, but I think I will hold it there and leave
10 it at a broad level for my comments. I think a lot of the
11 comments here have been broad. I've got the specifics in
12 written comments. If anyone wants to hear them, I can get
13 more copies to you and submitted to the Forest Service.

14 MR. GIFFEN: Thank you.

15 (Whereupon, there was a break in the hearing.)

16 MR. GIFFEN: Okay. How many additional folks would
17 like to speak this evening?

18 MR. AYLWARD: My name is Edmond Aylward. I'm from
19 Lincoln, Maine. I own CWA and Lake Street Real Estate. I
20 also am a small woodlot owner and a subdivider, second
21 generation.

22 I don't have a strong background in forestry, but I
23 do see how this impacts my business in my area through real
24 estate sales.

25 Mr. Mott, who works in our area, he and I may not

1 necessarily agree on issues concerning forestry, but one thing
2 I clearly agree with him on tonight is, you're mixing two
3 issues that have no business being mixed. Forestry and the
4 sale of the land are entirely separate issues and should be
5 dealt with separately.

6 As I pointed out to you, sort of with my questions,
7 I feel this process is very biased at this point. While your
8 liquidation harvesting practices that you're concerned with
9 may be in this area and that may be why you chose to have
10 hearings in this area, the rules that you make and laws that
11 may be made will affect the whole state and the whole state
12 needs an opportunity to be heard.

13 As a matter of fact -- excuse me for just a
14 second -- I'm not sure this is appropriate to show. In fact,
15 I don't know how many folks can see it, but I just took a
16 simple road map, and I drew a line across the state at the
17 most northerly hearing, and again, I don't know how many of
18 you folks can see it, but this process is not representing the
19 state as a whole very well at all.

20 I suppose I could give this to you folks, and I
21 think that's a very significant point, and I do feel that the
22 analysis of these hearings is very invalid because it does not
23 take in most of the state.

24 It's a hardship for a lot of people to get here.
25 It's an additional four hours north of the state from where I

1 live and I came two hours. That's a problem.

2 The other issue that has kind of become apparent to
3 me tonight is it seems like there's been very good
4 communication within the foresters and the forestry industry
5 as to when and where these meetings are going to be held, but
6 these impact landowners just as much as they do foresters and
7 timber harvesters, and I have seen very little of this in
8 northern Maine.

9 I think even though you have prepared written
10 comments and forwarded them for consideration, I don't think
11 there's a lot of folks who if they don't have a forestry
12 license in their pocket, they're not being notified and
13 they're not being updated on these things and a lot of folks
14 here that aren't foresters either have contract foresters or
15 staff foresters, and I think that's how information is being
16 disseminated; and because you are impacting far more than just
17 licensed foresters, I think you need to hear from far more
18 than just licensed foresters.

19 As regards, that's the process. I don't mean to
20 take away from the hard work you've put in. I'm sure the
21 intent is good. I'm sure the Legislature's intent was good.

22 But when you've got opponents and proponents that
23 say this rule isn't going to work, I think that's speaks very,
24 very loudly. I also think there's really no way to argue that
25 this is going to increase wood costs or products for the

1 industry that uses them. I don't think there's any way to
2 argue that it's going to reduce land rules.

3 Mr. White brought up the point that the liquidation
4 harvesters that you're after, it's not going to impact them.
5 They are going to factor into the buying prices is what you're
6 doing and keep trucking. It's not going to slow them down one
7 bit.

8 The part of the statement in LD 1616 mentions
9 preserving the forestry industry forest management in the
10 rural communities. This is clearly going to adversely affect
11 the forestry communities and rural communities in particular.

12 Northern Maine has experienced pain after pain after
13 pain, really, for the last two decades. We're losing
14 manufacturing jobs, and this will increase their cost.

15 We're losing our young people, which is our greater
16 resource than our trees, because they can't work. I think you
17 folks are going to become unwitting allies of Restore Maine,
18 and the park proponents are probably going to buy you folks a
19 free lifetime membership because there's going to be nothing
20 left for us to do up there.

21 My last comment is more related to property rights,
22 and some people have touched on it tonight and felt that it's
23 not the place, but I strongly feel that it's the place.

24 The forester from McPherson Timberlands and one of
25 the others have discussed how you determine maturity of the

1 tree. In the United States of America, the fellow who owns it
2 should be able to determine it. You are infringing on a very
3 basic constitutional right and that is one of the reasons that
4 I feel the forestry issues and the sale issues need to be
5 separated.

6 Thank you for allowing me to comment.

7 MR. GIFFEN: Okay. Other folks who would like to
8 testify.

9 MR. SANBORN: My name is Carl Sanborn. I'm a
10 forester for Louisiana Pacific and practicing forester and
11 have been for over 30 years, landowner, and I strongly believe
12 this is really not necessary.

13 We've got plenty of regulations now that cover
14 timber harvest. You look at the new intent to harvest form
15 now. You got to GPS your point. You got to tree growth --
16 you have to have tree growth. You have to have a management
17 plan.

18 So there's plenty of things working on us right now
19 administratively to cut wood. And we've been buying,
20 liquidating land for 20 years, probably longer than that, and
21 the landowner rights issue if you're a contractor and you need
22 to make money this year in order to survive, the next year to
23 produce wood for a mill, you might have to buy a piece of
24 land, cut it however you want, to sell it to make capital to
25 continue business, but that should be your right.

1 And I've seen land cut 20 years ago very
2 aggressively that are producing great fiber right now.

3 So I don't see it, as a forester I don't see it as
4 an issue. I think we have plenty of regulation now, and I
5 think we just -- status quo should be as we're doing it now,
6 great by the land. Everybody sees it differently. Thank you.

7 MR. GIFFEN: Other folks who would like to testify.

8 MR. HAWKINS: Ron Hawkins. I've got a small logging
9 company down in Washington County. Mr. Ames I think has a
10 copy of my letter because everything on my mind was pretty
11 well is in his.

12 This does affect -- you talk about big liquidation
13 harvesters or whatever, I'm also a very small company. I
14 can't afford -- I buy some land. I sell some.

15 Land. I try to hang on to as much as I can. I
16 can't afford to hang on to every piece of land for five years.

17 Some pieces are good pieces of land that I want to
18 hang onto. Some pieces are business I want to make some money
19 on and I want to pass it on.

20 I have a couple of kids I'm trying to raise. You
21 keep talking about northern Maine. Nobody wants to be in
22 northern Maine because it's pretty desolate over there, too,
23 for work.

24 The only people that are trying to make the dollar
25 and working and not on welfare, the State seems like they're

1 trying to put us out of business. Anybody trying to make the
2 dollars, the State's against it.

3 As far as the land values, it's taking a tremendous
4 hit. I see the real estate values on this acreage and raw
5 land drastically depreciating, and maybe that's the idea
6 behind this. This is the Governor's idea of liquidating
7 harvesting.

8 The Governor's also wonderful for making those big
9 bond issues to buy all the land he can, and that's happened
10 all over around Maine. And it has in most parts around the
11 state, but around Washington County, the State seems to be the
12 best buyer around.

13 So I guess if they can depreciate the value down
14 there, the Governor's hundred million dollars will go a lot
15 further and buy a lot more than this. Put us out of business.
16 We'll have less competition.

17 Most of this stuff has been addressed, but that's
18 just something that you're really hurting -- not big people,
19 but small people that are just trying to survive and get by.

20 If you're concerned about trees being stripped off a
21 piece of land, work with the Forest Practices Act. If 30
22 square feet of basal isn't enough, increase it to 20, if it
23 needs to be done.

24 Whether I buy a piece of land and I keep that for
25 the five years and strip it, or if I strip it today, it's

1 still going to be a stripped piece of land.

2 If you're concerned about the trees growing, deal
3 with the Forest Practices Act and the basal area and not
4 whether I sell it afterwards or not it shouldn't matter. It
5 should have no regards whether I sell that land or if I keep
6 it for one year or 25 years. That should have no effect
7 whatsoever.

8 Thank you.

9 MR. GIFFEN: To be clear about why we have done this
10 the way that we have, there was a lot of concern that this
11 issue might reopen Forest Practices Act as a whole.

12 We have assured the legislative committee that has
13 oversight on this, the Agriculture Conservation Forestry
14 Committee, that we would approach this issue as narrowly and
15 surgically as possible.

16 We would not be undertaking to reopen the Forest
17 Practices Act as a whole. That was a matter of considerable
18 concern to a lot of people, and we have pledged to do this in
19 a way which targets the particular behavior that's involved:
20 The buying, cutting, and selling within five years, removing
21 most or all of the value without regards to the principles of
22 long-term forest management.

23 That's the reason that it's done the way that it is.
24 I can assure you that this is not an effort to try to drive
25 land prices down so the State of Maine, through it's bond

1 issue, can acquire more land. This is an issue to try and
2 address the issue of liquidation harvesting, pure and simple.

3 Is there anybody else who wishes to speak? Yes.

4 MR. TROUT: I hadn't planned to address the
5 committee this evening, but there's one statement that
6 Shannon --

7 MR. GIFFEN: Your name, sir?

8 MR. TROUT: Dick Trout -- Shannon just said that
9 they promised the Legislature they wouldn't address the Forest
10 Practices Act, so that means to me that it has nothing to do
11 with forestry.

12 What they really want to do is stop the sale of
13 land. If you're not going to address Forest Practices, then
14 you're going to be addressing sale of land and everybody has a
15 title, I guess, some consider themselves liquidators, and one
16 day I consider myself a liquidator because I sell land. I cut
17 it.

18 As a matter of fact, Gordon Mark bought a piece of
19 my land that I cut and sold in a five-year period. Low and
20 behold, he wanted to buy some more, too. So it can't be all
21 that bad. Gordon's buying liquidated land.

22 On the other hand, sometimes I consider myself a
23 consolidator. For example, I started out with a piece of
24 land, 141 acres, and then it's eventually turned into a 1000
25 acres.

1 There are rock walls everywhere out there. I bought
2 the piece of land and low and behold another piece came up for
3 sale. Some that hadn't been cut, some have been cut. I
4 bought from liquidators, private landowners, and I
5 consolidated this land that was probably divided by
6 liquidators back in 1820 and broke it up into 160-acre house
7 lots of farms.

8 Now come back into one piece, and I think it's just
9 a matter of evolution. People buy land, split it up, comes
10 back together. History of this country, and I think it's a
11 shame that we're trying to stop this type of the capitalism,
12 and I think it's an almost like -- owe -- keep on, and I think
13 we should address -- if you think the Forest Practices Act is
14 bad with overcutting, do something about that, but don't try
15 to stop selling the land under the guise of good forestry.

16 Thank you very much.

17 MR. GIFFEN: Are there other folks who would like to
18 speak this evening? Yes, sir, the gentleman in the back.

19 MR. BUTLER: My name is Neal Butler. I am first
20 selectmen and planning board member at Amherst.

21 I am basically in agreement with the proposed rules.
22 I think that from my point of view and the town's point of
23 view it will help stem the demise of the landscape and the
24 initial usage of the town.

25 In the past years and currently right now we've had

1 a 900-acre subdivision cut, subdivided, stayed in fairly large
2 lots. Hopefully it's going to stay that way because some of
3 it is already posted.

4 This year we've gone into and had a 700-acre lot
5 that has been cut. Good practice is used on it, but is being
6 subdivided, it's privatized and posted. Another 140 is in
7 process right behind that.

8 There's 3100 acres that were cut over extensively
9 and, in fact, I think it was the only time that the State has
10 ever issued a cease and desist order for a thousand acres.
11 3100 acres there, 5100 acres right now that came up from town.

12 We have a town of 27,000 acres. When you add all
13 those acres up, that's 38 percent of the town that's being cut
14 up and divided, not to be the same traditional use ever again.

15 I don't see that, as the prior gentlemen said, it'll
16 come back together. I see it as it's been happening in the
17 town as being broken up, divided, privatized and posted.

18 Traditional use, traditional is gone. A great
19 majority of the town right now. People say to me, well,
20 you've got this 5100 acres.

21 We try to work with IP on that. In fact, we had a
22 deal with IP on that for \$3.1 million. We worked with the
23 Forest Society of Maine. We work for our land for Maine
24 futures. We had \$700,000 profits from them. We had money
25 coming in from a Nature Conservancy. We had money coming in

1 for everything else.

2 They apparently were dealing with somebody else on
3 the side as the package was coming together for the 3.1
4 million that we committed to. They sold it for 4 million.

5 Now IP tells me, and maybe you gentlemen in this
6 room and ladies could tell me the same thing, that it's going
7 to be bought and it's just going to be harvested, and it will
8 be sustainable forestry.

9 At \$784 an acre, you do the math. You tell me
10 what's going to happen with that. The only way that I can see
11 anything happening with that is that you cut it, and you cut
12 it hard, and you subdivide it, sell it off, use it for private
13 kingdoms or smaller lots.

14 But it seems to me the size of this lot of 5100
15 acres and the five years between subdivision is going to get
16 sold off into private kingdoms.

17 The lakes, even the short lakes on this land, has
18 the finest water that has ever been tested in the whole state
19 of Maine since the State has ever tested water. You won't
20 find a better quality water there.

21 If you get a chance to fish, can you go to do that
22 or does it have to be somebody's kingdom? You don't have to
23 tell me, but it's \$784 an acre. You're not taking in
24 harvesting that on a normal patent. You can't afford that.
25 Not at \$4 million. Do the numbers.

1 I find that the town loses over a revenue point of
2 view. If IP is really in the real estate business, which I
3 believe they are, not in the timber business, their value is
4 in the property and apparently if it's \$784 an acre that it's
5 selling for, we're getting the taxes on \$100 an acre.

6 We're getting some tree growth back. If property in
7 town, part of the property in town which sold, and it was sold
8 for more than the value that it was assessed at, the very next
9 year, you can rest assure that the State would be there
10 updating our valuation, and with upping the valuation we could
11 either change our revenues.

12 Somewhere, I believe, we, the town, the State, and,
13 subsequently, the paper industry, to some degree, because
14 they're not paying the fair share of what the value of the
15 property is. I can't get away with that and I don't know
16 anybody in this room that can get away with it.

17 In closing, I support the rule proposal with the
18 changes as suggested by the Natural Resource Council of Maine.

19 Thank you.

20 MR. GIFFEN: Yes, this gentleman back there.

21 MR. PHINNEY: My name is Peter Phinney. I'm from
22 Wytopotitlock, Maine. I've been a planning board member and
23 chairman and vice-chairman for 15 years in Lincoln. As you
24 know, right now in Lincoln there is not very good news in
25 Lincoln, Maine at this time.

1 I want to reiterate that I think that there should
2 have been meetings held up our way. There should have been
3 better communication with municipalities, planning boards, and
4 stuff on this information. I think in our area it will have
5 quite an effect, maybe only effects a few people, but it still
6 has an effect on everybody.

7 In our area we have two companies: Gardner Land
8 Company and AC Haynes, who buy land, sells some of it.
9 They're in the process of buying land from companies that have
10 their corporate headquarters out of state and the local
11 companies, I graduated or one boy I played basketball with, I
12 know the Haynes, and I think it's good they're buying this
13 land because there's local companies owning it, and they do
14 sell some of it off.

15 At today's prices, you go out and buy some of this
16 land like they are, they have to find a way to sell part of it
17 in order to keep the ownership of the rest of it.

18 I think you'll find that their land ownership is
19 growing, not decreasing, very misinterpreted from a lot of
20 people.

21 The gentleman out here that's my neighbor. He cuts
22 wood and buys lots and sells them. He's taking care of his
23 kids. I got a kid in college. I'm also a real estate broker
24 with CWA Real Estate.

25 The gentleman that spoke earlier, Ed Aylward, has

1 been selling real estate for about 18, 19 years. We sold some
2 of this land that's been cut over. People hang on to it.
3 They grow trees. I guess I just don't understand it.

4 After a log is cut, and I guess I'll go back to
5 Gordon Mott says, do the trees care who owns the land? I'm
6 just a little confused on that. Who owns the land really
7 doesn't matter once it's cut, if someone turns around and
8 sells it.

9 When someone sells a piece of land, my
10 brother-in-law is in the audience, he goes out and surveys it,
11 there's lawyers, they go ahead and they make out a deed. It's
12 something that happens in a little town that keeps us going.

13 If you're going pass something like this, then I
14 probably have no doubt that you're going to. Even though we
15 sit here and a lot of people are going to say no, it's always
16 most likely you're just going to pass it. It's falling on
17 deaf ears. I'm sorry, but that's the way I feel.

18 At least get it so in our little town in Lincoln,
19 the municipality, our little town wants to have it. Let us
20 have it. If we don't, then let us say we don't want your
21 rules because you're telling me, the gentleman in the blue
22 shirt way at the end, I don't know your name, I'm sorry, said
23 most of the problem is south of Bangor. Keep it there. Let
24 us control our own way up there.

25 Thank you very much.

1 MR. GIFFEN: Thank you. Other folks who would like
2 to testify.

3 MS. DAVIS: I'm Theresa Davis. I'm a private
4 forester and native of Maine from a little tiny town called
5 Mariaville, which, when I went to high school 25 years ago,
6 30 -- don't quote me -- nobody ever heard of Mariaville.

7 Mariaville was the fastest growing town in Hancock
8 County for a couple of years running in the past ten years.

9 I don't care if the problem is north of Bangor,
10 south of Bangor; when you see the way of life in the small
11 rural towns changing, it's very emotional. I see that because
12 that's the way I grew up.

13 But as a forester, and I'm also a State evaluator,
14 so I do septic systems on these subdivisions, I think that
15 people have the right to buy and sell land, and I think it's
16 getting all mixed up with the issue of poor forest practices.

17 I think that poor forest practices need to be
18 addressed through the Forest Practices Act, and I think to say
19 that you're not going to address that is a fundamental problem
20 here, a huge part of the picture. You're overlapping the two
21 things, buying and selling land and forest practices.

22 A lot of the subdivisions, I've seen the forest
23 practices have been great and sometimes they're not, sometimes
24 they are, but I think that we should all be working on better
25 forest practices. I don't think you should tie it to buying

1 and selling land.

2 I think we need a law that you can't own more than
3 three houses anywhere in the world. If people didn't buy
4 land, then nobody would need to sell them. People need a
5 place to live.

6 I probably have to add written comments because
7 there were a lot of things I agreed with tonight and I don't
8 really want to repeat them. I guess that's it.

9 MR. GIFFEN: Thank you. Let me explain the linkage
10 here between the real estate transfer and the forest
11 practices.

12 First of all, liquidation harvesting was defined by
13 the Legislature as the purchase, harvest, removal, most of all
14 value, without regards to principles of long-term forest
15 management and resale within five years, okay. So that's the
16 definition that the Legislature and the Governor have agreed
17 to.

18 The reasons why that definition was chosen, and it
19 had been adopted in a resolve previously by the Legislature,
20 it's been around for a few years, is because of the concern
21 that there's a difference in the motivation between folks who
22 own land for a short period, in terms of the kind of forestry
23 that they are likely to practice, and people who own land for
24 the long term.

25 That's the kind of thing that the Legislature was

1 trying to address in adopting that definition and directing us
2 to develop these rules.

3 In addition, one of the consequences or one of the
4 consequences of this practice of what we found through the
5 field study that we've done is part of the consequences is
6 very heavy removals, typically, and as I recall -- I don't
7 have the numbers off the top of my head -- the vast majority
8 of these sites, the great majority of the volume was indeed
9 removed.

10 Somebody else cited a figure earlier of something on
11 the order of 80 percent, and I think that that's correct.

12 In addition to that, another one of the consequences
13 of liquidation harvesting is that these parcels -- the
14 original parcels tend to get broken up into smaller parcels.

15 And so, for instance, I think we ended up with 31,
16 didn't we, Don, well, there were 33 and then another two
17 dropped out because of family transfers or something, so on
18 the 31 sites where we did the field survey, those ended up
19 being over 60 parcels, I think 65 parcels at the time when the
20 field study was done.

21 Now, keep in mind that there are also an additional
22 14 percent of the harvest which were bought and cut within a
23 five-year period, but where the five-year period has not
24 expired on those, okay, so at the time that the survey was
25 done the entire five-year period had not run for the full

1 group of sites that had been bought and cut within a five-year
2 period.

3 So one of the consequences here is the fragmentation
4 of forestland, the breaking up of larger parcels into smaller
5 parcels.

6 It's been documented for years in the forestry
7 literature that practicing forestry on smaller lots is more
8 expensive, more difficult, the layout of the smaller lots is
9 much less likely to be interested in timber and much less
10 likely to actively manage the lands.

11 Now, I say that being a small landowner myself and
12 thinking that I practice exemplary forestry and knowing that
13 some of the best forestry that's practiced in the state of
14 Maine is on the small lots.

15 However, if you look at the averages, on average, a
16 person who is interested in actively managing forestland owns
17 a larger piece of land. The people who own a smaller piece of
18 land are more inclined to manage for other values.

19 So part of the concern here, and the reason why
20 there's this linkage between the land sale, the real estate
21 transaction, and the forestry is because this practice has the
22 two consequences that we talked about.

23 In general, every rule was without regard to
24 principles and long-term forest management and the
25 fragmentation of the land ownership, which in the long term is

1 going to hurt the wood supply for the forest products
2 industry.

3 That's been demonstrated through the studies that
4 we've done. That's why there's that linkage.

5 Are there other folks who would like to speak
6 tonight.

7 MS. DUNCAN: My name is Geneva Duncan. I'm a
8 privately-licensed forester. I've been licensed for 17 years
9 here in the state of Maine. I will disclose at this time that
10 I am employed by the Maine Forest Service, and nothing I'm
11 saying here tonight represents anything to do with the
12 Maine Forest Service, if I am able to disconnect myself.

13 I've heard a lot of discussion about the sale of
14 land and forest practices. As a licensed forester for 17
15 years, I've seen my share of poor forest practices in Hancock
16 and Washington County.

17 I've owned land in Aurora since 1974. I'm trying to
18 think clear to my son, he's 29. Seven years ago I moved to
19 Perry, and I will agree with Ronnie Hawkins that Washington
20 County is a piss poor place to do business.

21 I've heard a lot of discussion about land sales.
22 The paper companies were the first to sell the land. I'm not
23 going to comment one way or the other because that's their
24 right to sell their land, but the pulp and paper companies
25 have huge problems internally. This is all about economics.

1 This is about people who are trying to make a living.

2 When I moved to Washington County seven years ago, I
3 married a logging contractor. That makes for some very
4 interesting discussion at dinner.

5 My husband has not hauled any wood for 18 months, up
6 until three weeks ago when he started calling for a private
7 person, H & S Contracting.

8 He buys from local private wood lots. The reason
9 that Austin had not hauled any wood was because IP sold all of
10 their land and all of the wood cutters are coming down from,
11 you know, Lincoln, Wytovitlock, and I recognize Rod, and I'm
12 happy that those men have a job, but that doesn't help Austin
13 who has lived in Washington County.

14 We own 300 acres of land. He's a fifth-generation
15 owner. His grandfather was in the Legislature. Austin is a
16 graduate of the Washington County Technical College six-month
17 wood harvesting school. He's not a CLP logger. That makes
18 for very interesting discussions on regulating these things.
19 He's well trained, well skilled, but he's not recognized.

20 He makes back hauls. He picks up wood from -- I've
21 seen slips come in, paychecks with Hank McPherson. I just
22 keep my mouth shut because this is his business. We don't
23 even have a joint checking account. He says I make a lot more
24 money regulating his friends.

25 Jobs are important in the mills. The mills have

1 driven the price down. They did not give up the land because
2 it was cheaper for them to buy wood. Who's going to bear the
3 expense of the cost of owning this land and managing it?

4 I have concerns as a licensed forester about shoddy
5 work from licensed foresters. I've checked sites. I have
6 three notifications right now with my name on them. Do you
7 think I'm nervous? Yes.

8 But these are, for the record, the three loggers I'm
9 working with, none of them are CLP because basically they
10 can't afford it.

11 These men have cut wood for 30 or 40 years. They
12 work alone. I went in to check on one of them yesterday and I
13 couldn't hear the skidder going or his chain saw. I walked a
14 long ways. I was hoping that I didn't get in there and find
15 this man dead, but if I did, he said he's a one-man operation.

16 These kinds of job, this wood is not being sent to
17 the mills anymore because the State is impacting us. It's a
18 very complicated issue. It's incredibly complicated.

19 When I graduated from the University of Maine 17
20 years ago, I wasn't a political science major. I didn't want
21 to deal with politics. I wanted to be a forester and I wanted
22 to deal with the land.

23 I saw a lot of poor forest practices going on when
24 St. Regis owned that land. Again, I moved to Aurora in 1974.
25 I've seen the liquidation, the sale of the land. I've worked

1 both ends of it, and it's a huge problem, but, again, I think
2 it's an economic problem. It's problems within the pulp and
3 paper industry.

4 They are expecting these contractors to work for
5 nothing. The only way they can make a living is if they sell
6 some of the land. Yes, we should somehow hold them
7 accountable for doing good forest practices.

8 There are several people in this room who have
9 testified against this and I've seen their work. Their forest
10 practices are not good. Hopefully they've improved. I hope I
11 live long enough to see it.

12 I'm 51 right now. Another 25 years I hope to see
13 some regrowth in some of these areas, but in the meantime it
14 doesn't make sense to -- Washington County is the second
15 poorest county in the whole United States, not just the State
16 of Maine. The whole thing is pitiful.

17 We're here. Everybody's talking. I'm not sure
18 anybody's listening. I'm not sure that the people that should
19 be there are at the table. I'm just sure that Maine depends
20 on the forest products industry and the way of life that will
21 allow the sporting camps to exist, that will allow truck
22 drivers to be able to haul wood, except in the spring crunch.

23 The guy that's hiring you out there must be paying
24 you better than the mills or else you wouldn't be doing this
25 because my husband is lucky enough to be an owner/operator and

1 he sets the wage that he hauls wood for.

2 When IP divested of all their land in Washington
3 County, Austin bought a backhoe and a small bulldozer. And
4 with his wood harvesting skills and a wife who's a licensed
5 forester, he's made very good wages in the last two years
6 clearing lots and putting in septic systems for people that
7 want to buy land in the town of Perry, the coast of Maine.

8 The price of fuel, you know, he took -- when IP
9 divested of their land, he took one load to Masardis and he
10 took one load to Jay and then he parked the truck. And he
11 hauls paper from Eastport, has a contract. And so my income
12 is directly related to all of this.

13 It's very stressful. We need our forests and we
14 need them to be working for us. And I agree just the transfer
15 of land, again, it all comes back to the paper company. They
16 sold the land first. Why aren't they supporting some of this
17 and the education?

18 The education costs always comes down to the
19 contractor. The mills should bear some of this
20 responsibility. The landowner should bear for this
21 responsibility. It's always the poor logger who seems to get
22 the short end of the stick.

23 Thank you.

24 MR. GIFFEN: Thank you. Other folks who would like
25 to testify.

1 Yes, sir.

2 MR. YORK: My name is Galen York, and I just want to
3 say that I'm probably your worst nightmare. I buy land.
4 Bottom line is, I buy it, I cut it, and I sell it. It's my
5 livelihood. It's my job. I'm going to defend it with any
6 power I have as I'm sure you would do for your job.

7 Thank you.

8 MR. GIFFEN: We can take questions, but I just want
9 to make sure everyone has an opportunity to have their say and
10 then we can take questions, unless it's something that's
11 confusing the conversation at this point.

12 Is there anybody else who wishes to speak?

13 If not, did you have a question, Gordon?

14 PARTICIPANT: Go ahead, I'll wait right here.

15 MR. HANINGTON: My name is Scott Hanington, and I'm
16 from Wypitlock, Maine. I want to first say I don't know
17 what hat I'm wearing here tonight. I guess this is a Dirigo
18 Pines Community hat.

19 I helped liquidate 35 acres over in Orono, which is
20 now a \$36 million business for a retirement community. When I
21 was -- when my company was certified as a master logger, that
22 was one of the lots they looked at. So we did a lot of
23 liquidation harvesting there.

24 Now we've got a lot of old folks that are going to
25 be liquidated as they go through the process there.

1 I do oppose the Forest Services rules. I want to
2 make that clear. I've got a few notes here, and I'm not going
3 to go into all of the numbers you've heard tonight because
4 you've heard them four or five times, and I've heard them a
5 lot over the past.

6 I know about everybody in this room, to some degree,
7 and when we first started with liquidation I couldn't really
8 figure out what it was.

9 It was 25 contractors Forest Service said was
10 liquidators. I didn't get on the list. I was very upset
11 because as you heard, some people might be your worst
12 nightmare.

13 I'm a logger, and I buy and sell real estate, and I
14 do very good forestry, and I do take the commercial value and
15 sell it, but private property after this I'm the vice-chairman
16 of Landowners Alliance, and I don't believe the State of Maine
17 should be in the real estate business.

18 I will reiterate what I heard here this evening
19 about Forest Practice Act and owning private property. There
20 should be, as Mr. Mott said, that should come to the canyon
21 and dropped and be forgotten. That's my opinion. I don't
22 know. I'm not Alec, and I believe you're Karen Tilberg.

23 MS. TILBERG: That's right.

24 MR. HANINGTON: I've been listening, listening to a
25 lot of people about these issues. I've logged in Perry,

1 Maine; Ft. Kent, Maine; Rumford; Mariaville. I've logged in
2 about every place in the state.

3 I live in Wytovitlock, and I have two relatives that
4 log there and to keep peace in the family, I have to leave
5 town to log.

6 So I was asked quite a few years ago to serve on a
7 panel for outcome-based forestry, at my own expense. Most
8 everyone else there was there from a large landowner, Maine
9 Forest Service.

10 We spent a lot of time and we developed
11 outcome-based forestry, and we were going to present it to
12 legislation. It was during the time when we had it completed
13 that we had a second referendum, and we chose not to present
14 this to legislation because we didn't want a competing
15 measure.

16 I've been involved with about every forest products
17 industry. The Maine Forest Products Council. I was one of
18 the first CLP program, the PLC program. I think we ought to
19 have a dictionary for all of these acronyms that we have in
20 the state.

21 I am probably right now a private property activist.
22 I believe that if you buy land, trees are going to grow there
23 anyway, regardless of who owns it. And as far as landowners'
24 rights, the State and the large landowners and small
25 landowners who are posting property are probably one of the

1 most easygoing states in the United States because we let
2 people use our property for nothing.

3 They recreate on it. We had one gentlemen said he
4 had lodges and liquidation harvesting was bad for his
5 business. Well, if he brings moose hunters in -- I believe
6 it's clear cut right there in four or five years, and go shoot
7 a moose on someone else's land.

8 What I have a problem with the Forest Service
9 through legislation taking away my assets. If I want to put
10 my assets in the stock market just shortly before Y2K come, I
11 would have lost them anyway, but everyone took that gamble.

12 We talked about Lincoln and our jobs. Seven hundred
13 fifty men lost their jobs in Lincoln and Aurora and
14 surrounding communities.

15 My heart goes out to the mill workers. They have
16 good wages, benefits, a lot of vacation time. Every time a
17 paper mill has a struggle in this industry, everyone comes to
18 their rescue. They come with fuel assistance, help from
19 towns. I remember just a little while ago, DOC and the
20 Department of Labor was involved with loggers up North.

21 They didn't even fly one turkey in to help them.
22 Loggers are the ones that are taking the blunt of this for
23 years. That's how I started with a chain saw for seven years,
24 right out of high school, and I'm still proud to be a logger.

25 These rules are going to affect a lot of jobs in

1 this state.

2 Alec, I see I'm off track here a little.

3 MR. GIFFEN: If you could try and direct your
4 comments to the rules that would be helpful.

5 MR. HANINGTON: I think these rules are going to
6 affect all these comments I'm making, I really do.

7 One thing I'd like to touch on. If these rules are
8 going to affect small woodlot owners, 65 acres, 75 acres, if
9 they are going to affect that -- Don's over here saying know
10 it all.

11 MR. GIFFEN: Okay. If there's an exemption for
12 people who own less than 100 acres statewide.

13 MR. HANINGTON: One thing I would like to touch on,
14 when we're worried about liquidation harvesting and we have
15 new owners, we could have one new owner and buy the whole
16 township, pay 5- or \$600 an acre. Baxter Park and we've heard
17 about her recently.

18 When we talk about these rules affecting the trees
19 that we're going to have to harvest down the road for our pulp
20 and paper industry, I think the Maine Forest Service ought to
21 take a good hard look at how they manage their lands because
22 in 2002 they harvest the 55 percent over annual growth. Now,
23 is that good forestry? I don't know, I'm not a licensed
24 forester. I'm a logger by trade.

25 These are some issues I had about the Maine Forest

1 Service. I mean, you guys had a task to do. You were
2 legislated and go back to the 2 percent problem.

3 I remember, Alec, when you were giving your
4 testimony to the Forestry Ag and Conservation committee, I was
5 down there that day and I think she's the co-chairman, she
6 co-chair, Linda MacKee.

7 MR. GIFFEN: Yes, Linda MacKee.

8 MR. HANINGTON: You did an excellent job. She asked
9 you two or three times if you had more time would there be a
10 problem. She was -- it amazed me the fact if you had more
11 time to study this you could find more bubbles. I don't know
12 if you recall that or not. I did, and I went up and talked to
13 her after that on these rules.

14 We look at them of we can't find problems. I think
15 we ought to look at what we did in the forest products
16 industry since we've had our Forest Practice Act in 1989.

17 We're doing a great job. We've got a great idea, I
18 believe. I think these rules are taking private property, and
19 I guess that's all I have on rules. I have some more
20 comments, but they don't go directly to the rules.

21 MR. GIFFEN: Thank you.

22 MR. HANINGTON: You're welcome.

23 MR. GIFFEN: Let me say because a number of people
24 have brought it up tonight, sort of an overview of what's
25 going on with the Maine forest as a whole.

1 There are a lot of things that we're doing right in
2 Maine Forestry and the amount of forestland in the state is
3 stable. It's greater than it was around the turn of the
4 century.

5 The volume of wood is up, it's close to double what
6 it is was it back in the early part of the century and close
7 to double what it was back in the 1950s.

8 We have a good distribution of size classes. We
9 have good stocking in our stands. We have done a good job of
10 protecting rare, threatened, and endangered species.

11 A lot of things that are going will in Maine's
12 forests. There are also some challenges that we face and
13 liquidation harvesting is one of those.

14 We feel that it's as consistent with what the
15 Legislature has found and what the Governor has directed us to
16 do.

17 It's important to deal with this issue effectively
18 and get on with the other important business. And I agree
19 that there are a lot of other important things that the Maine
20 Forest Service needs to do in order to make sure that we're
21 doing the best that we can to maximize the productivity and
22 manage Maine's forests in the best way they possibly can.

23 So don't take our draft rule here as saying that we
24 don't understand that there are a lot of good things going on
25 in the Maine forests. I've said a number of times to other

1 audiences that having been out of forestry here in the state
2 of Maine because I ran my own business for 16 years and
3 basically was working in other parts of the country, in
4 California with the Forest Service on some jobs, I worked in
5 the State of Washington and Oregon with the U.S. Forest
6 Service on the some jobs. I worked in Vermont. Worked in
7 New Hampshire. Basically was not working on forestry issues
8 here in Maine.

9 I was struck in coming back and having spent a fair
10 amount of time in helicopters flying to meetings and airplanes
11 flying around, in my view how much better job we're doing than
12 they were, say, back in the early 1980s which was really the
13 last time that I was really dealing professionally with
14 forestry issues here in the state.

15 I think we're on the right kind of trajectory. We
16 are expecting a volume in the forest increase, even more, with
17 the stands regrowing from spruce bud worm.

18 So we're doing a lot of things right, but we feel
19 that we need to get on with this issue. We need to get it
20 behind us so we can focus on other important things.

21 Are there other folks who would like to speak
22 tonight? If not, Gordon, you had a question that you wanted
23 to raise.

24 MR. MOTT: Your earlier comment, Alec, that seemed
25 to suggest when the forestland that confused me.

1 I understood that this rule was going to the nature
2 of harvesting rather than undertaking trying to diminish the
3 way in which land was being divided for sale and then my
4 second question is one related to that in a sense.

5 Is there any process whereby you can feedback to the
6 Legislature as a result of the hearings having heard the
7 public comments to the effect that maybe the Forest Practices
8 Act should be reopened, and that's where perhaps our concerns
9 should lie rather than with this narrow issue with regard to
10 Maine forest products?

11 MR. GIFFEN: I'll respond to the second one first.

12 There will be a complete record. We're having a
13 transcript from these hearings. We will reflect in our
14 summary of comments, and we'll respond to the issue of the
15 Forest Practices Act as a whole.

16 I expect that our response will be that we were
17 directed to deal with the narrow issue of liquidation
18 harvesting and that we've done so.

19 This has been a major point of concern and
20 discussion with the ACF committee of the Legislature. We have
21 been very clear to them as to how we understand our charge to
22 deal with this issue with liquidation harvesting and not to
23 deal with the whole Forest Practices Act which causes a great
24 deal of anxiety with a lot the folks.

25 As regards to your first question, the rule deals

1 with timber harvesting, yes. That's what this rule deals
2 with, but the practice of liquidation harvesting has these two
3 components: Fragmentation and poor timber harvesting
4 practices.

5 Our belief is that if we deal with the forestry side
6 of it that we will also have an effect on fragmentation and
7 also the subdivision bill, which is being considered by the
8 Legislature, will deal with that issue as well.

9 So we see the two as interrelated, Gordon, but we're
10 not proposing to deal directly in these rules with the
11 fragmentation issue. We're dealing with the forest management
12 side of it.

13 PARTICIPANT: I'm not aware of the subdivision rule.

14 MR. GIFFEN: You must have missed the introduction
15 or maybe we went over it too quickly.

16 One of the other things that's being considered by
17 the Legislature that came out of the complementary solutions
18 report was Bill LD 1617, I believe is the number, which has
19 now been reported ought to pass by the natural resources
20 committee of the Legislature and that bill, if enacted by the
21 full Legislature, which essentially says if a liquidation
22 harvest takes place that land would not be eligible to be
23 included within a subdivision for the five-year period from
24 the initial purchase.

25 So that's the -- that's what the subdivision law

1 change is that's proposed.

2 MR. GIFFEN: Yes, Charlene.

3 MR. KRUG: Charlene Krug, K-r-u-g. LD 1617 has an
4 amendment to it. Do you know what the status of that
5 amendment concerning to the foresters and the planning board
6 and then there was another amendment that Ted Kaufmann said
7 was going to be added on having a forest, allowing the
8 planning board to hire a forester to conduct a full
9 investigation and bill all these charges to the landowner if
10 the Forest Service didn't have the resources to make a
11 determination?

12 MR. GIFFEN: It's an option that the landowner has,
13 and I'm not clear of what the status of that amendment is on
14 that.

15 MR. MANSIUS: That's the amendment that was passed
16 out, but I'm not clear on the exact language.

17 MR. GIFFEN: Apparently that amendment passed. It
18 provides the landowner with an option in terms of going
19 forward with a subdivision if they want to, they can either
20 rely on the Maine Forest Service, if we're able to get to it
21 in a timely fashion, or they can hire a forester to certify
22 their land has not been liquidated.

23 I saw a hand up over here.

24 MR. TROTT: Mr. Trott. We have more fiber now and
25 more land under the forestry than we had at the turn of the

1 century and you sought the Forestry Practices Act since the
2 mid-80s -- Forest Service is more active.

3 MR. GIFFEN: It's not just because of us. Not even
4 primarily because of us. It's because of the landowners and
5 the foresters.

6 MR. TROTT: That's happened way back in probably the
7 1920s and '30s, back when it was private management and the
8 landowners managed it before the Legislature started micro-
9 managing through the Forest Service, the management of the
10 forestland, I don't think the that -- well informed about
11 property rights and real estate has pushed into this interest
12 environmental groups.

13 MR. GIFFEN: I can tell you that we have gone over
14 with the ACF committee, in quite a lot of detail, the results
15 of our most recent inventory, and we also talked extensively
16 with them about these issues.

17 So I would say that the committee that has
18 jurisdiction over this is very well informed on these issues.

19 MR. TROTT: You went out and had these liquidated
20 parcels or inventoried for forest management left there. Did
21 you also take some large landowners and compare their forest
22 practices, parcel prices that liquidated in five years? Seems
23 like the little guy who owns less than a hundred acres, he's
24 exempt, but the big guys that hang on for five years, the
25 huge, the guy always in the middle that gets it and it's not

1 the little guy because everybody always is sort of exempt one
2 way or another.

3 MR. GIFFEN: Part of the sampling, we did include
4 large landowners, but where we -- we then went through and
5 dropped out people who met any one of the exemptions that was
6 included and so, for instance, a lot of those parcels dropped
7 out because they're third-party certified.

8 But we did look at large landowners who had bought,
9 cut, and sold within five years. It turns out that our
10 research shows that most of this activity is actually related
11 to ownership by logging contractors.

12 Other questions or comments that folks have? If not
13 I want to thank you all for your attendance tonight and for
14 the civil discourse that we've had on this issue.

15 Thank you all.

16 (Whereupon, the hearing was concluded at 8:43 p.m.)

17

18

19

20

21

22

23

24

25

CERTIFICATE

I, Lisa Fitzgerald, a Notary Public in and for the State of Maine, hereby certify that on March 24, 2004, a public hearing was held by the Maine Department of Conservation, Maine Forest Service in Ellsworth, Maine regarding MFS Rule -- Chapter 23, Timber Harvesting Standards to Substantially Eliminate Liquidation Harvesting.

This hearing was stenographically reported by me and later reduced to typewritten form with the aid of computer-aided transcription; and the foregoing is a full and true record of the testimony given by the witnesses.

I further certify that I am a disinterested person in the event or outcome of the above-named hearing.

IN WITNESS WHEREOF, I subscribe my hand and affix my seal this April 26, 2004.

LISA FITZGERALD, NOTARY PUBLIC
Court Reporter

My commission expires: May 10, 2004